

CRITIQUE OF DIVORCE AND REMARRIAGE

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David Instone-Brewer, *Divorce and Remarriage in the Church: Biblical Solutions for Pastoral Realities* (Carlisle: Paternoster Press, 2003)

NOTE: Only Chapters 12, 13 and 5 (in that order) were critiqued). The reviewer has appended his replies under the term RESPONSE.

SUMMARY

This book departs from the Apostolic and Early Church practice of refusing to remarry separated or divorced couples. Instead, the author falls back on rabbinical practices and exegesis of the text (particularly Dt 24:1-4, and Ex 21:1-10), in order to press for a change in the Church's universal and consistent teaching on divorce and remarriage. He believes that Jesus taught divorce was permissible to either spouse for (1) adultery, (2) desertion, (3) abuse, (4) hard-heartedness, and (5) neglect. Jesus only condemned the more trivial grounds for divorce that rabbis like Hillel had introduced.

In practice, Hillel taught that divorce could be had for 'any cause', a phrase which the author raises to the level of a legal term for a Hillel-style divorce, which he claims was known and accepted throughout Judea and Galilee by that name.

It is fairly obvious that Moses introduced an 'every cause' divorce culture in which men (and only men) could initiate a divorce for (A) an indecent matter, and (B) hatred of their partner (Deut 24:1-4; Num 5:12-31). Rabbi Shammai agreed with this, but Rabbi Hillel (born some decades before Jesus) introduced 'a thing' cause, by splitting 'an indecent thing' into two causes, namely, 'indecency' and 'a[ny] thing'. Later on, Rabbi Aqiba introduced a fourth cause, ugliness in the wife (or a visual indecency), from the introductory statement in Deuteronomy 24:1, "if she does not find favour in his eyes."

At the heart of the author's case for going back to a pre-Hillelite position is his belief that the phrase "for any cause" in Matthew 19:9 is a direct reference to the new, Hillel-style divorce, and the phrase "except for adultery" in Matthew 5:32 is a direct reference to the older, more conservative style Shammai divorce. He believes that both had become legal phrases before Jesus began His ministry, hence the use of capital letters and single quote marks around these phrases. The author feels he has discovered a key to these coded phrases, which opens up these texts in a way which had been overlooked, or hidden, for nearly 2000 years, and which explains how the entire Church, post-AD 70, mistook the coded phrases and read them in a literal fashion (in much the same way that all our English translations still do today).

In practice, the author seeks to reintroduce into the Church the teaching of the rabbis closest to the position of the Shammaite Pharisees. Indeed, when it comes to the interpretation of Deuteronomy 24:1, Jesus followed Rabbi Shammai rather than Rabbi Hillel. This means that any biblical (i.e., rabbinical) grounds for a divorce stated in the OT, or deduced from an OT text, or a cause which can be deduced from the New Testament text, can now become part of the Church's teaching and practice.

In support of the reintroduction of Mosaic-style divorce, the author firmly believes that the Church had, *from the beginning*, adopted Hillel's 'Any Cause'

grounds for divorce (i.e., during the lifetime of the Apostles), but that in the confusion at the break-up and dispersal of the Church after the fall of Jerusalem in AD 70, the new Church leaders lost the true, Apostolic practice of permitting divorce on the five grounds that he has identified above, and by mistake, introduced a no-remarriage rule which has remained in force in the Catholic Church to the present day.

The reviewer is of the opinion that the Apostolic and Early Church Fathers had a correct understanding of Jesus' revolutionary 'no divorce' and 'no remarriage' teaching from the very beginning, but that Erasmus led the Reformation Church astray when he altered the Greek text to read "except" in place of "not" at Matthew 19:9. Jesus taught that all remarriages were adulterous relationships while both partners remained alive. Only death could separate what God had joined together in one flesh.

In the first part of this critique, the reviewer has concentrated on a detailed examination of the four reasons the author has given to explain how the entire post-Apostolic and Early Church Fathers, apparently, completely forgot Jesus' endorsement of Moses' five grounds for divorce, and introduced a false teaching of their own, which has enslaved the Church to the present day. The author claims to free the Church from this straight-jacketed imposition, and restore the freedom to divorce on 'biblical' grounds that Jesus the Rabbi, and Paul the Apostle, taught.

In the second part, the reviewer puts the spotlight on the author's exegesis of Jesus' statements on divorce and remarriage.

CHAPTER 12. THE TEACHING WHICH TIME FORGOT: WHY DID THE CHURCH MISUNDERSTAND JESUS SO SOON? (PP. 130-139)

THE FIRST REASON

The first reason the author gives for believing that the Early Church Fathers lost the original teaching of Jesus on divorce is the destruction of Jerusalem in AD 70. He claims that most of the Jewish leaders died during the siege. Hillelite Pharisaism controlled the Jamnia Council (p.130) and Hillel's divorce was the only type of divorce available (p.133).

RESPONSE (§12.1) An obvious objection to this is that Jesus' teaching had immediate, practical implications as soon as one heard what His new teaching was on divorce and remarriage. The destruction of Jerusalem was almost forty years in the future, so two generations of Christians grew up in Jerusalem before it was destroyed.

Wherever Christians went after the persecution of Stephen (Acts 8:1; note the Apostles were not dispersed¹), they took with them Jesus' teaching, even if it was only His Sermon on the Mount. Consequently, the destruction of Jerusalem in AD 70 was far too late to have had any influence on 40-years' of evangelism throughout the known world, even reaching as far as Spain before the destruction of Jerusalem took place. By this time the practical consequences of Jesus' teaching would have been universally embedded in all the churches of Christ, which may have numbered hundreds. While it is possible that

¹ It is interesting that when the Greek wishes to express an exception to πάντες 'all', it follows it with πλὴν 'besides', and not with εἰ μὴ 'except'.

interpretations of words might be lost, if not carefully transmitted to the next generation, practical traditions, once established after 40 years of use would be harder to depart from.

RESPONSE (§12.2) The author claims that all the Jewish Christian leaders had been killed in the siege. This is unlikely as the Christians were warned by Jesus that when they saw Jerusalem surrounded they were to flee to the mountains, which they did when the siege was lifted temporarily.

RESPONSE (§12.3) To assume that the destruction of Jerusalem wiped out the top level of leadership, i.e., all the apostles and elders of the Jerusalem church, before it had time to convey the *practical* consequences of Jesus' teaching on marriage and divorce, is improbable. Only if we could reduce the 40 years to 40 weeks could this become hypothetically possible. If the destruction of Jerusalem resulted in the Spirit-controlled Church losing Jesus' teaching on divorce and remarriage, why was this the only doctrine lost? Or have they lost other doctrines?

RESPONSE (§12.4) It is fairly certain that both Peter and Paul died about AD 66 in Rome, before Jerusalem was destroyed in AD 70. One was the Apostle to the Circumcision, and the other was the Apostle to the Uncircumcised. The Church had become a universal Church well before their deaths, with hundreds, if not thousands of churches, being planted throughout the Roman Empire. Paul talks about the Gospel having gone out into the whole world during his lifetime. If the Church had become a universal Church before AD 70, how could the destruction of Jerusalem affect any doctrine, let alone just one doctrine and not others? And how did they all instantaneously drop Hillel's 'Any Cause' divorce without leaving a single record anywhere that they had done this?

RESPONSE (§12.5) The Holy Spirit caused all the records of Jesus' teaching and those of His twelve apostles to be conveyed in the universal language of the time, namely, Greek. The Holy Spirit was also present in the assemblies to guide them into "all truth", as Jesus promised He would. It is a fact of Church history that not a single church, or church leader, deviated from the teaching of the Gospels on the issue of divorce and remarriage for the first 500 years, when we meet the first questioning by a church leader. Did the Holy Spirit fail the Lord Jesus, and fail the Universal Church, in not guiding them into "all truth" as promised?

In conclusion, the united witness of the universal Church not to remarry divorced persons can only be explained on the assumption that the Apostles and the Early Church Fathers understood that Jesus had abolished the Mosaic and Rabbinical provision for divorce and remarriage, and substituted in their place the teaching in Genesis 2:24, that marriage was for life with no prospect of reversing the 'one flesh' state that had taken place in the lawful union of two persons—male and female. The Church's unity of practice is the greatest stumbling-block to the author's attempt to reintroduce Mosaic-style divorce into the Church.

THE SECOND REASON

The second reason given by the author was 'the evolution of language'. Legal jargon changes too, though usually less quickly (p.132). The author bases his opinion on a hypothetical scenario in which he believes the term 'Any Cause' was used by supporters of Rabbi Hillel to refer to Hillel's new, exegetical discovery that the expression "an indecent thing" (in Deut 24:1) is not one cause for divorce, but two, if you split it into "indecent" and "a thing". Hillel believed that a man could divorce his wife over "a thing", which, in effect, meant "any

thing,” hence the author’s label ‘Any Cause’ divorce. The author then latched on to the fact that some translations of Matthew 19:9 put the Pharisees’ question in the form, “Is it lawful for a man to divorce his wife for ‘Any Cause?’” which the author believed was a direct reference to Hillel’s new ‘Any Cause’ divorce.

The author speculates that when Matthew wrote his Gospel there was no way to spell out what ‘Any Cause’ meant, because Matthew did not use single quote marks to indicate that he was using a highly specialised legal term, and a few years earlier, when Mark wrote his Gospel he, in the parallel text to Matthew 19:9, did not even feel the need to include the specialised, legal phrase ‘Any Cause’ because it would have been too obvious to his readers.

However, by the 2nd century, when the legal phrases of Hillel and Shammai had been forgotten, the Pharisees’ question was understood as “Is it lawful to divorce one’s wife for any cause?” – i.e. “is divorce ever lawful?” – this was the ‘obvious’ meaning at that time. No-one spoke about ‘Any Cause’ divorces any more, not because they didn’t exist, but because they were the only type of divorce (p.133).

RESPONSE (§12.6) Analogical arguments illustrating confusion between technical and non-technical uses of terms might be helpful to explain how the Apostles read the technical as a non-technical term, but only if it can first of all be proved that there is a parallel between Matthew’s use of ‘all cause [πᾶσαν αἰτίαν]’ and Hillel’s use of ‘A Thing [λόγον]’. Assertion is not the same as proof.

RESPONSE (§12.7) If it became widely known that Jesus was against divorce on any grounds, as Mark 10 and Luke 16 have it, this would immediately put Jesus in conflict with Moses. Now the masses were convinced that Moses was a man of God, and that he conveyed the Torah to the people. Consequently, if those who hated Jesus and His growing popularity with the people, could broadcast to the nation that Jesus opposed Moses, this would spell the end of His public ministry more quickly and effectively than any other method. So the trap was set and the question asked: “if it is lawful for a man to divorce his woman according to all accusation.” The phrase “according to all accusation” [κατὰ πᾶσαν αἰτίαν] is the usual Greek idiom (a collective singular) for the English “every accusation”. So the question asked “if it is lawful to a man to divorce his woman upon every accusation.” Mark, writing to a non-Jewish audience (Roman citizens), can convey the same thing by omitting the last phrase: “upon all accusation,” because Mark already knows Jesus’ answer. Knowing Jesus’ answer, he can accurately quote that part of the original question which asks if divorce, *per se*, is legal. If the answer is Yes, then the next question would have been to ask, Under what circumstances is it lawful? But Mark knows there can be no further question beyond that part of the question which he has chosen to quote.

However, the way the question is phrased in Matthew, the assumption the questioners make is that divorce *per se* is lawful, and their real underlying question is, Is it lawful for every reason? which might have arisen from Hillel’s interpretation of Deuteronomy 24:1-3.

RESPONSE (§12.8) It is worth emphasising that the Greek does not say, “for a thing” [κατὰ λόγον], which was Hillel’s position, but, “for every accusation” [κατὰ πᾶσαν αἰτίαν]. There is a significant difference between “any” and “every”, and there is a significant difference between a “thing” and an “accusation”. If the questioners had heard that Jesus had excluded divorce totally, on any grounds, not even permitting one exception, then this would have ruled out adultery as a grounds for divorce. The question would then have as its motive the desire to seek clarification that this was, indeed, Jesus’ stated position.

They might have asked: “Is it lawful for a man to divorce his woman for any [single] accusation?” The expected answer would have been, “Only for adultery.” If this had been the original scenario behind the question, then it would have come from an incredulous Shammaite Pharisee, for whom adultery was a certain cause for divorce (so we are told but no proof is given²). If Jesus denied this, then He would be in conflict with Moses.

However, the Greek says, “upon every (OR: all) accusation.” The standpoint of the questioner may well be that of a Shammaite Pharisee who objected to the Hillelite doctrine of “divorce for a[ny] thing’. The Shammaite Pharisee could not have expanded the Hillelite phrase to read: “for every accusation including adultery,” as he would want a qualified No from Jesus: ‘No’ to ‘for a[ny] thing,’ but ‘Yes’ to ‘adultery’.

Or the question could have been asked by a Hillelite Pharisee, who wanted to have the support of Jesus for his position. In which case he was expecting the answer ‘Yes’ to Matthew’s loaded question.

But both Gospels state that the questioners were not there to clarify matters—it would appear that they were already familiar with Jesus’ well-known position. They were there to tempt Him. To do what? The answer must be that both Hillelites and Shammaites were united against Jesus’ position, and they came to exploit the indisputable permission given to the nation by Moses (in Deut 24:1-3) to obtain a divorce on *some* grounds. Jesus’ position clearly contradicted Moses’ position in their analysis of His teaching. In this lay the danger and the temptation. The choice, as they saw it, was either Jesus backed down from His absolutist position, or else He would have to admit Moses’ exceptions to His new teaching on marriage and divorce. There did not seem to be any way out of the dilemma their question posed for His absolutist position. Moses’ permission seemed like a trump card in their hand.

But Jesus cleverly evaded the trap set for Him, by taking them further back than Moses, to His Father’s statement in Genesis 2:24, by claiming that that view of marriage took precedent over Moses’ view. This fairly took the wind out of their sails. In four ways Jesus’ teaching on marriage and divorce was superior to theirs. (1) Superior in origin. Yahweh was superior to Moses. Jesus’ teaching emanated from His Father; theirs emanated from Moses. (2) Superior in authority. Whatever authority Moses had, Yahweh’s authority was superior. Moses had delegated authority from God. God is head over all authority. (3) Superior in time. Yahweh’s view of marriage went back to “the beginning of creation,” whereas Moses’ view only extended back to the beginning of the Sinai Covenant. Yahweh’s oversight covered all men everywhere from the beginning of creation; Moses’ oversight covered only a tiny nation. (4) Superior in motive. Yahweh’s law was framed so that husband and wife should live together in a soft-hearted relationship with one another. Moses’ law was framed so that husband and wife could stay apart in a hard-hearted relationship. Yahweh is a concerned creator to keep husband and wife together; Moses is a facilitator to help separate what God had joined together, under pressure from hard-hearted husbands who were determined to divorce come what may.

RESPONSE (§12.9) The author believes that the rabbis permitted divorce for adultery in Jesus’ day. It would have strengthened his case enormously if he

² It is a unproved assumption by the author that Hillel and Shammai agreed on divorce for adultery. No evidence has been produced for this assumption. What appears to have happened is that Mt 19:9 was altered to allow divorce for adultery, and this was then read back into rabbinic literature. If Mt 19:9 had been correctly translated ruling out divorce for adultery, then rabbinic literature would have been found to agree with Jesus’ teaching!

had been able to bring forward proof of this, but there is no proof given of this by the author. According to rabbinic sources, adultery was punished by death, not divorce; see Mish. Sanh. 7.3, 9; B. Sanh. 52b, 55b, 66b. If, in the beginning, God did not permit divorce for adultery, and if in the end, the Mishnah (completed in the early 3rd cent. AD) did not permit divorce for adultery, what proof do we have that it was permitted between these points in time? And if it was permitted, it was done so without any sanction from the written or the oral Torahs.

If we look at the list of capital punishments for sexual sins in Leviticus 20 we see that the *method* of death is not specified in some of them, and in particular, not in the case of adultery. God leaves the *method* blank with the statement they "shall surely be put to death." Only in one case does He specify the *method*, in Leviticus 20:14. The culprit is to be burnt to death. So whatever method is used it is not uppermost in God's thoughts, but the end *result* is. He wants all of these sexual perverts exterminated.

The Pharisees say that Moses commanded that such be stoned. Maybe this was taken from Leviticus 20:4 by extension. However, in Ezekiel 23 Yahweh's two wives, Aholah and Aholibah, became adulteresses, and He ordered the assembly to stone them and then cut them with their swords (Ezek 23:47). This would support the Pharisees' demand that she be stoned.

Jesus approved of God's punishment of stoning for adultery when the woman taken in adultery was brought before Him. He did not offer divorce as a way out of the situation, because it would have been against the Law. The challenge Jesus threw out to them was, "Yes, she should be stoned, but let the executioner be a righteous community of Law-abiding citizens." So the Law was good in itself, and the punishment (death) just. If the Pharisees had changed the punishment for adultery from death to divorce, then they were guilty of changing God's Law. It was not an option to commute the death penalty to a permanent divorce punishment.

Philo supported the death penalty for adultery, A betrothed "wife" is regarded by Philo as a wife, because she is his wife in all but deed. Betrothal is the equivalent of marriage, he says, and therefore if she willingly or unwillingly has intercourse with another man it "is a form of adultery" (III.58, 72). "And therefore the law ordains that both should be stoned to death." Here Philo would have approved of the demand to stone the woman taken in adultery in John 8.

Roger Aus noted, "It is also recorded that at least one daughter of a priest (still in her father's house) was burnt to death before 66 CE because of committing adultery (in Jerusalem)." And then adds, "If the daughter of a priest was caught while engaging in such behavior, it is very probable that those further down the social scale of priests/Levites/Israelites did so also, and certainly more frequently."³

This does not sound to me like a one-off burning for adultery, or mob-rule, but a regular practice. I suspect that the Romans could not care less what the Jews did, provided they did not riot.

If Roger Aus is correct, then I would tend to the view that the woman taken in adultery might well have been stoned to death had they not brought her to Jesus. That is what saved her, in this instance. It then means that the question put to Jesus was not just a technicality, but a real,

³ Roger Aus, "Caught in the Act," *Walking on the Sea, and the Release of Barabbas Revisited* (Atlanta, Georgia: Scholars Press, 1998), p. 23.

dangerous situation to negotiate. How then does this square with John 18:31?

I suspect that John 18:31 should be looked at from a political standpoint, and not from a religious one.⁴ If the Roman authorities had allowed the Sanhedrin to handle all matters connected with the Torah Law, as Pilate permits them to do so, then only political, capital offences were denied them, such as the imprisonment of Barabbas, and other revolutionary leaders.

John 18:30-31 reads, “they answered and said to him, ‘If he were not an evil doer, we had not delivered him to you.’ Pilate, therefore, said to them, ‘Take you him — you — and according to your law judge him;’ the Jews, therefore, said to him, ‘It is not lawful to us to put any one to death [as an evil doer].’” The charge was that Jesus was “an evil doer”—a civil matter. So no religious charge of blasphemy was brought against Jesus.

The religious authorities wanted Jesus dead, but they wanted the Romans to take the blame, hence the charge was shifted from “blasphemy” to “an evil doer” and Jesus’ claim to be ‘king of the Jews’ helped in that direction. So maybe Rodger Aus’ observation can stand alongside the Jewish authorities’ refusal to meddle in political matters that rightly belonged to the Roman authorities.

Pilate clearly acknowledged the right of the religious leaders to control the people in religious matters when he said, “Take him and judge him according to your law.” But Jesus was a hot potato, and they did not want His blood on their hands if at all possible, hence they steered away from their own judgment of blasphemy, and put the focus on Jesus’ claim to be King of the Jews. This clearly put Him in political conflict with Rome. It was a clever ploy, and it worked.

So there is no need to dismiss Aus’ evidence. It can be reconciled with John 18:31 if the latter is seen as a capital punishment for usurping the ‘kingship’ of Rome. In that sense the Jews were right to say that they had no authority to put a man to death for saying he was ‘king of the Jews’. That was a political offence. John 18:31 should not be assumed to mean that *all* capital punishments were taken away from them in the light of Aus’ evidence that capital punishment was common for adultery (and presumably other religious offences such as blasphemy).

Under Roman occupation, following on from the Hellenisation of Jewish culture, the majority usually bend with the wind, and opt for a quiet life. But there will always be those who remain faithful to what they know to be God’s will. God’s will had been practiced under Jewish autonomy. That some would want to see the full Law kept through hard times is evident in the Zealots’ exploits. So what they did was not illegal in terms of obeying God rather than man.

We should remember Yahweh’s evident delight to see zeal for His will in His people in the incident with Phinehas who killed (some might have said ‘murdered’ the adulterous Israelite leader), “Phinehas, son of Eleazar, son of Aaron the priest, has turned back My fury from the sons of Israel, by his being zealous with My zeal in their midst, and I have not consumed the sons of Israel in My zeal” (Num. 25:11). You could say that Phinehas was an “illegal zealot” because he did not go through the courts, but that is not how Yahweh viewed him. He honoured him by promising, “Lo, I am giving to him My covenant of peace, and it has been to him and

⁴ Aus does not say that the killing was illegal. He points out that a source, not connected to the Mishnah, maintains that “the Romans took the right of capital punishment away from the Sanhedrin only 40 years before the destruction of the Temple (70 CE), i.e. ca. 30 CE.” Ibid, p. 16. It was temporarily restored under Agrippa I [AD 40-44].

to his seed after him a covenant of a priesthood age-during, because that he has been zealous for his God, and makes atonement for the sons of Israel." Elijah, likewise, was "very zealous for the Lord, the God of hosts" (1 Kgs 18:40; 19:10 and 14). This 'zeal' should be the norm for every Jew (and Christian). The Pharisees who brought the woman were showing the same zeal (even if it was selective).

Roger Aus points out that, "An early midrash shows how dangerous the latter could be for the adulterers. R. Yose the Galilean, a second generation Tanna⁵ notes on this passage [Num 25] that "the adulterer goes in [to the woman's home] with the intent that, if he is taken in the act, he will either kill [the enraged husband, who discovers him] or be killed."⁶ Further down he notes that there are five major crimes to which no legal proceedings are required. Instead, others are entitled to take immediate action. This is how he sees the PA being a legal death (if Jesus had consented). The source for this is m. Sanh. 9:6, and the origin of m. Sanh. 9:6 is put in Maccabean times, or 2nd cent., BC because a gemara (4th gen. Pal. Amara) states, "The court of the Hasmoneans decreed that one who cohabits with . . . [*esheth ish* = a married woman] . . . is liable to punishment on account of NaSHGA." Aus claims that the use of "*esheth ish*" definitely meant adultery, punishable by death.⁷ So divorce for adultery in Hasmonean times was not an option. Aus makes the point that death for adultery was not questioned by Hillel and Shammai, and that the practice "definitely stems from a time before Jesus' ministry."⁸ This would support the contention that Deuteronomy 24:1-3 was never used to obtain a divorce for fornication/adultery.

Suppose the woman taken in adultery was the wife of Jesus, would Jesus' attitude toward her have been any different? Would He have shown rage and demanded the death penalty? Would He still have said, "Go and sin no more"? If Peter had said, "Lord, if my wife commits adultery against me seven times, should I forgive her seven times"? would Jesus have said, "Not seven, not even once. Have her stoned the first time she does it." Or would He have said, "Not just seven times, Peter, but if she commits adultery against you seventy times seven, then you forgive her seventy times seven." All sins are against God, and so is adultery, noted Joseph, when enticed to commit adultery with Potiphar's wife. Gen 39:9, "he has not withheld from me anything, except you, because you [are] his wife; and how shall I do this great evil? — then have I sinned against God."

It is interesting that Hosea (1:2) is told to take a wife of prostitution, and she is encouraged to 'put away' (divorce?) her fornication and adultery (2:4, Eng. 2). Hosea then forgives her, as God does with Israel. Adultery can be forgiven. It is not followed by divorce under the New Covenant law, but by unilateral forgiveness.

THE THIRD REASON

The author notes the fact that the Greek was originally written in continuous script with no punctuation within a sentence, though paragraphs, or

⁵ Strach and Stemberger, *Intro. to the Talmud and Mishnah*, p. 81.

⁶ Roger Aus, "Caught in the Act," *Walking on the Sea, and the Release of Barabbas Revisited* (Atlanta, Georgia: Scholars Press, 1998), p. 4.

⁷ Roger Aus, "Caught in the Act," *Walking on the Sea, and the Release of Barabbas Revisited* (Atlanta, Georgia: Scholars Press, 1998), pp. 16-17.

⁸ Roger Aus, "Caught in the Act," *Walking on the Sea, and the Release of Barabbas Revisited* (Atlanta, Georgia: Scholars Press, 1998), pp. 17-18.

pericopes, are usually marked in some way. The author then takes advantage of the fact that quotation marks and single quote marks to indicate words used in a technical sense are not written in uncial Greek style. However, it should be pointed out that in Codex Vaticanus, just in Matthew 19:1-13 alone, there are gaps at the end of verses 2, 3, 6, and 10. Besides these, the scribe has a short, horizontal line marking off the start of vv. 3, 4, 6, 8, 9, 10, 11, 13. The author is unaware of this punctuation and assumes it is lacking.

Due to this assumed lack of punctuation, the author is of the opinion that Matthew 19:3 should be translated as:

Pharisees came up to him and tested him by asking, "Is it lawful to divorce one's wife for 'Any Cause'?"

He argues that,

The addition of quotation marks and upper-case letters to 'any Cause' is not strictly necessary but it reminds the reader that it is a technical legal phrase. Without this reminder it is very easy to read the question as though the Pharisees were asking Jesus whether divorce is *ever* lawful. This mistake was already being made by the 2nd century, because everyone except Jewish rabbis had already forgotten that the phrase "'Any Cause' divorce" ever existed (pp.134-35).

RESPONSE (§12.9) If the author is correct, this is the only place in the New Testament where he can claim that single quotes marks should be used in the translation to avoid taking the words in their normal sense. Assertion is not the same as proof. He needs to prove that the phrase 'every cause' was a technical term for a particular kind of divorce—an 'Any Cause' divorce. See Response §12.6, where we noted that the technical term 'Any Cause' does not occur anywhere in rabbinic literature to refer to Hillel's new grounds of divorce. It was created by the author and read back into the literature.

RESPONSE (§12.10) Even if there was a technical, legal term, called 'Any Cause', which, as we noted above, is the author's mistranslation of the Greek in any case—as it should be translated 'Every Cause'—there is, in fact, no difference between its normal and its technical meaning. Both mean 'every cause'. We have, in effect, a fictitious scenario with the sole purpose of altering Matthew 19:9 to support the existence of Hillel's new divorce label. There is no proof that Hillel's view altered the 'every cause' divorce that Moses introduced.

RESPONSE (§12.11) Unfortunately, the author does not translate the Greek but follows an English translation. In Greek there is the possibility that this may not be a direct question, hence there is no need for quotation marks or even a question mark. Rather, the question may be conveyed by Matthew using the indirect style, "And the Pharisees came near to him, tempting him, and saying to him, if it is lawful for a man to put away his wife according to all cause." Similarly in Mark 10:2, the translation could be, "And the Pharisees, having come near, questioned him if it is lawful for a husband to put away a wife, tempting him."⁹

So this may be a case of reporting the question without giving the exact words that they used. If Matthew and Mark wanted to give the exact wording of the question they could have used τί at the beginning (as in Lk 6:2), in place of εἰ, or used neither (as in Lk 14:3; 20:22). At Luke 14:3 we have an interesting variant. The MT reports Jesus' question in the indirect style by inserting εἰ,

⁹ Cf. also, Luke 6:9, "But Jesus said to them, I ask you if it lawful (εἰ ἔξεστιν) on the sabbaths to do good, or to do evil; life to save or to kill." Cf. Acts 21:37 where it would appear that εἰ is part of the question. But BDAG gives εἰ, as "a marker of an indirect question as content" which could be translated as "that, whether". Acts 21:37 would then read: "And Paul, being about to be led into the castle, says to the chief captain whether it is permitted to me to say anything unto you. And he said, 'Greek do you know?' The statement, 'I asked whether it was possible for me to fly from that airport,' is the indirect form of the question: 'Is it possible for me to fly from that airport?'"

whereas the NA27 text gives the direct style by omitting εἰ. From this it would appear that the presence of εἰ is the marker for the indirect style. If so, then the question of recording the exact words of the Pharisees does not come into play here. It will be the meaning that the two Gospel writers give the words whenever they wrote their Gospels.

RESPONSE (§12.13) We have the author's statement:

The addition of quotation marks and upper-case letters to 'any Cause' is not strictly necessary but it reminds the reader that it is a technical legal phrase. Without this reminder it is very easy to read the question as though the Pharisees were asking Jesus whether divorce is *ever* lawful. This mistake was already being made by the 2nd century, because everyone except Jewish rabbis had already forgotten that the phrase "'Any Cause' divorce" ever existed (p.135).

There are a number of assumptions here. (1) The phrase that is claimed to be a technical term appears to be just the two words πᾶσαν αἰτίαν (*pasan aitian*), 'every cause'. The word αἰτίαν ('cause') occurs twelve times in the LXX and all of them mean 'cause', or 'reason', as here. So the term is not a technical term after all, but a common enough word with an everyday use. Assertion is not the same as proof. (2) He claims that by the 2nd century the technical meaning was lost. Again, assertion is not proof. (3) He claims that "everyone except the Jewish rabbis" had forgotten that the technical phrase had ever existed. How do you prove that "everyone" had forgotten something? Universal claims like this brings the claim itself into question. It is convenient to have a theory in which every vestige of its technical use has been lost in all the writings of the all the Early Church fathers.

What the author does not deny is that the two words are common words so that they ought to be read with their dictionary meanings until such time as they appear in a technical context, which is not the case in Matthew 19:9, since, as he notes, "Without this reminder it is very easy to read the question as though the Pharisees were asking Jesus whether divorce is *ever* lawful." This is not a correct translation of the text. The question was: "Is it lawful for a man to divorce his wife for every cause?" which was the scope that Moses gave the nation. Hillel campaigned that a man could divorce his wife for any thing. This reads the same whether you take 'every cause' in a technical sense or literally. This makes nonsense of the assumption, or rather the assertion, that the two words, πᾶσαν αἰτίαν, have a technical meaning which is different from their dictionary meanings.

The crucial error the author has made is that he has assumed what he needs to prove. Moses gave the nation an 'every cause' divorce law. Hillel merely strengthened Moses' law by isolating the Hebrew word *dābār* and claiming that since it means 'a thing', therefore Moses was right to allow the men to divorce their wives for every and any reason. Hillel's contribution was to give Moses 'every cause' divorce an exegetical foundation. The nation continued to use Moses' 'every cause' divorce provision before and after Hillel. *Hillel did not add anything to Moses' law which was not there already*, when he suggested that men might divorce their wives if she spoiled his soup, any more than Aqiba added anything to Moses' law when he suggested that men could divorce their wives for their ugliness. The two words that are used in Deuteronomy 24:1-3 were 'an indecent thing,' and 'hatred', neither of them qualified, limited, or defined. This allowed any husband to dismiss his wife on any grounds he chose to nominate and mentally file them under "an indecent thing" or "hatred" and he did not even have to go to court. Moses gave them a DIY service, which no one could question. Each husband was his own judge and jury. Moses gave him total power

over his wife. He gave in to their hard-hearted clamouring and then tried to implement a way of keeping track of which wife belonged to which man.

THE FOURTH REASON

The author creates a scenario in which Jesus' words had to cross many barriers. The first of which is that Jesus did not speak Greek. All His teaching was in Aramaic and written in that language. None of it was in Greek, we are informed. This is another barrier. The Aramaic records were abbreviated which conveys the inference that something was lost in the process. Another barrier. This abbreviated record was then translated into Greek which could have contributed to the loss of more meaning. Another barrier. The Christians who read these Greek records were Gentiles. Another barrier. They had little knowledge of Jewish customs. Another barrier. They could not read the Hebrew Old Testament. Another barrier.

So Jesus' words had to pass through a number of obstacles. It had to pass through Aramaic and Greek hands. It became detached from the original, social and cultural context in which they were originally given, so that in the end, "it is not surprising that 2nd-century Christians occasionally misunderstood what he [Jesus] said" (p. 135).

RESPONSE (§12.14) If the chances of misunderstanding Jesus' teaching can be magnified to a level of difficulty that casts doubts on the inspired record in the Gospels, this creates an aura of suspicion, which then lies over *all* of God's Word like a fog, obscuring, we are informed, some cardinal truths for nearly 2000 years. Having created a suitable scenario the claim can then be made that some crucial practice and doctrine, which had been hidden under this blanket of swirling mist, has suddenly come to light in a book 2000 years later.

I am reminded of the blurb on the dustjacket of Jacob Neusner's, *The Mishnah: An Introduction*.¹⁰ It reads,

[the] Mishnah portrays the world in a special way, in a kind of code that makes it a difficult work for the modern reader to understand. Without knowing how to decode the Mishnah, we may read its words without receiving its message.

The author claims he has discovered the code by which we can now read the text as Matthew intended us to read it. The code had been lost about 100 years after the Gospel of Matthew was written. Without knowing the code, the Church leaders misread Matthew 19:9 and misdirected the practices of the universal Church down a narrow channel—an extreme position—on the issue of divorce and remarriage.

If the Church leaders got one teaching of Jesus completely wrong and managed to replace the original teaching of Jesus so effectively that not a single reference to His original teaching has survived, one wonders how many other doctrines were completely replaced without leaving a single reference to them behind. The author claims to have decoded Matthew 19:9, and as a result we can reverse 2000 years of consistent Church practice and re-install the Mosaic laws on divorce guided by the rabbis' formulation of them.

¹⁰ Jacob Neusner, *The Mishnah: An Introduction* (London: Jason Aronson Inc., 1989).

RESPONSE (§12.15) Given the author's scenario of a succession of 'barriers', no doctrine of Scripture is safe. His scenario, if correct, means that all of Jesus' teaching lies under a cloud of suspicion, and we will need the help of many more books, similar to the author's, before we can penetrate the fog and retrieve the original truth with their help. Given this series of barriers we are totally dependent on this new rabbinic research to guide us past these innumerable barriers into a jungle clearing where we shall no longer see in part, or through a fog dimly, but behold the beauty of the truth fully documented and footnoted to assure us that we have reached our destination.

In order to make a case for a new doctrine it is self-defeating to cast doubt on the inspired Word in a selective manner. The selection process itself undermines its credibility. It has the ring of a device carefully crafted to suit the end desired.

The author created a scenario consisting of a series of barriers that came between Jesus and the canonically inspired records in the New Testament. He needed to create this scenario in order to put himself in the unique position of single-handedly removing all the barriers that had contributed to obscuring Jesus' original teaching on divorce.

RESPONSE (§12.16) The author has exaggerated the difficulties. If we take the section on "Missing punctuation" (p. 134), the author presents the reader with a piece of English text without gaps between the words. Being unfamiliar with text without gaps the text is naturally 'strange' and 'difficult', and the author seeks to exploit this experience to make his point. But if one grew up with words without gaps between them, or with the Chinese script, or the Babylonian cuneiform script, these would not be 'strange' or 'difficult' to a Chinese child, or a Babylonian child. These scripts would be as 'normal' to these children as a script without gaps between words would be to a Greek child. Greek classical writings and the entire OT in Greek had been written without gaps between words for centuries. This had never been a problem to them. The author has exploited a linguistic phenomenon to convince the reader that a Greek text without gaps was a 'barrier', and so a potential source of misunderstanding the text. The difficulty lies not in the Greek mind but in the Western mind, as his example shows, and this the author has unfairly exploited to confuse the reader, and cast doubt on the purity of transmission of the Gospels.

However, the scenario was so overdone that it was in danger of undermining, not just Jesus' teaching on divorce, but every major doctrine and the entire revelation of the New Testament, because they were all subject to the same series of barriers that he had marshalled to justify his departure from the dictionary meaning of the Greek words. Aware that he had exaggerated his scenario, the author backtracked in order to safeguard the infallibility and sufficiency of Scripture as given in the Greek New Testament by conceding, "we have to assume that the Holy Spirit was able to convey truth accurately to the original readers in language and concepts which they would understand" (p. 136). So, if the Holy Spirit guided all the New Testament writers in their writings, then what we presently have must be sufficient to guide us into all truth. We have not lost any of Jesus' teachings, because the Holy Spirit has guided each of the Gospel writers in the choice of what to include and what to exclude. Jesus left His apostles with the assurance that when the Comforter would come, He would guide them into all truth, and bring all things to their remembrance, whatsoever He said to them. So what was the point of conjuring up a series of imagined barriers if the Holy Spirit directly superintended the final form of the inspired

New Testament writings in the Greek language, the majority of which were written before the destruction of Jerusalem in AD 70? One can only conclude that the point of raising so many 'barriers' was to make way for the author's own new teaching of how a crucial doctrine of Christ's was lost as it crossed over one or more of these barriers on its way to Christians living in the 2nd century. One wonders why the goal is set so far ahead in the 2nd century, when the need for the Holy Spirit to guide the Twelve Apostles, and Paul the Apostle to the Gentiles, into the truth was a pressing need immediately after Jesus' ascension in AD 29.

RESPONSE (§12.17) The author assumes that Jesus did not speak Greek and did not give any of His teaching in that universal language, yet His apostles seem to be very proficient in it and even His brother James could write his epistle in Greek.

RESPONSE (§12.18) Another device the author uses to play down the impact of his new doctrine is to relegate Jesus' teaching on marriage and divorce to a class of doctrines which he regards as not being necessary for salvation (p. 136). It is a minor doctrine, he claims. But if Scripture informs us that no adulterer will enter heaven, then we have a real problem, "There shall by no means enter into it anything defiled [κοινὸν], . . ." (Rev 21:27). And if a new teacher arises and replaces Jesus' long-established teaching with his own new doctrine (claimed to be retrieved from a misunderstanding of Jesus' use of a legal code), and if that doctrine declares that remarriages are biblical, when Jesus denounces them as adulterous unions, then we have a clash of teachers. One of them is a false teacher. One of them flatly contradicts what the inspired, infallible Scripture says about adulterous remarriages.

RESPONSE (§12.19) The insufficiency of Scripture. Another approach in playing down the significance of the loss of Jesus' original teaching on divorce is to claim that "Scripture alone is not always enough" (p. 137). The author believes that some minor points of doctrine or practice are not plain, and are not clear to all (p. 138). On the back of this broad, general statement (culled from the Westminster Confession of Faith) he would include Jesus' teaching on divorce. It should be pointed out that when the Westminster Confession of Faith used the term "sola scriptura" it did so believing that everything that is necessary for salvation can be found in a plain reading of Scripture. Scripture plainly teaches that no adulterer will enter heaven. Therefore the avoidance of adultery is necessary to salvation. Adultery is not a minor practice. The author does not want the issue of divorce and remarriage to come under the rubric of "sola scriptura", as this would ruin his chances of replacing Jesus' unambiguous teaching with his own, new teaching.

It would appear, however, that the Twelve Jewish Apostles, the super-Pharisee—Paul the Apostle, the Jewish Elders of the Church in Jerusalem, and the totally Jewish congregations in Jerusalem and Judea, were in no doubt about Jesus' ban on divorce for any cause, including adultery. The Church reached out to the furthest corners of the Roman Empire within the first 40 years (up to the destruction of Jerusalem in AD 70) with this teaching.

Church history reveals that the first questioning of Jesus' teaching on divorce by a church leader did not arise until at least 500 years after He ascended into heaven. How come that not a single objection is recorded by any Jewish Apostle, or Christian Jewish congregation, to the teaching of the Church that has come down to us today? This constitutes one of the major objections to this new teaching on Jesus' recorded position. It flatly rejects Jesus' revolutionary doctrine

and practice, and replaces it with another doctrine and practice which is barely distinguishable from Moses' 'every cause' divorce, which, in its turn, is barely distinguishable from Hillel's 'Any Cause' divorce.

Under the sub-heading, "An explosion of information," the author assumes that a scholar living today has a superior knowledge of what went on in Jesus' day than any of the Church Fathers had living a hundred years after the death of Jesus. How do you prove such a claim? We do not know how much they knew, so how can we measure it? We do not know how much information has been lost, so how can we measure it? What has survived is less than what was written, which they had. John the Apostle states that if all that Jesus did and taught had been written down the world could not contain the books that contained them. Thousands of books, current in the first and second centuries, have perished. All we have left is their titles in some cases. Scores of false 'Gospels' were in circulation, but are now lost, except for some fragments. Scores of commentaries by the early Church Fathers have not survived, or survive only in a fragmentary state. What did these commentaries contain? These are lost to modern scholars. They are irrecoverable. But these works were known to the early Church Fathers. They also had a vast store of oral communications going back to Jesus' day. These are all lost to the modern scholar.

What is the point of making this exaggerated claim about the superiority of modern scholarship? The answer is, that if the author can show that a modern scholar knows more about Jesus and His teaching than a second or third generation Christian, then the witness of these early Church Fathers can be dismissed as inaccurate, or as inferior to his superior knowledge of what really transpired in Jesus' day.

The witness of the early Church Fathers does indeed constitute a huge obstacle to the reception of his new teaching, hence the need to undermine their credibility. But if you have to undermine their credibility as a witness to Jesus' teaching on divorce, then you undermine their credibility when they witness to any other doctrine of Christ. Why accept their witness as credible in some areas, but not in others? Why are they wrong only when they witness to Jesus' teaching on divorce, but are credible on all other topics? Is this a case of selective credibility by the author in order to squeeze in his new teaching, which he knows is contradicted by them?

While it is possible that ideas and interpretations can be lost because they are passed on in oral tradition, and are therefore subject to memory lost, or lapses in recollection, or if written down, are lost or destroyed, the same cannot be said of practices or traditions. Once these become part of the community, the collective memory of the community will ensure their survival as the tradition is reinforced through countless repetitions of it.

In the case of divorce and remarriage the collective memory and the collective practice support and confirm one another in an unbroken transmission from the earliest of the Church Fathers to the present day. So it is not sufficient for the author to undermine the interpretation of the early Jewish leaders of the Church, he needs to give an explanation why there has been an unbroken practice not to permit the remarriage of divorced persons. He has failed to give a reason why or how a universal tradition grew up which is at total variance with his new practice. This is a major obstacle to his new interpretation, and one that looks decisive for relegating it to the realm of fanciful eisegesis.

One of the earliest witnesses to the Early Church's practice is *The Shepherd of Hermas* (written between AD 100 and 140). In it the writer deals with the issue

whether a husband should continue living with a wife who has committed adultery. He advises separation/divorce (presumably she did not ask for forgiveness). At the same time “for the sake of her repentance,” a second marriage was forbidden. Should an erring wife repent, her husband must take her back as his wife. Remarriage to another woman, other than to a repentant former wife, was regarded as adultery (Book 2, *Comm.* 4:4-8).¹¹ This fits in with Paul’s view of separation as a ‘pause’ in the marriage, made with a view to reconciliation. Separation, in Paul’s view of mixed marriages, was not viewed, like death, as the end of a marriage. D. Instone-Brewer, however, regards divorce and death as both ending a marriage, and the latter can be legitimately followed by a second marriage. Jesus and Paul both taught that only death ended a marriage. The author has adopted a pre-Christian view of divorce, i.e., the obsolete Mosaic system, which he wants to see replace what the Early Church taught.

Another very early witness is Athenagoras (c. AD 177). He wrote, “Second marriage is only eye-pleasing adultery. ‘For whosoever puts away his wife,’ says He [Jesus], ‘and marries another, commits adultery.’” The marriage bond, in the view of many of the pre-Nicene fathers, was so joined by God (so Tertullian [c. 200] and his contemporaries) that it continued beyond the grave. It even led some to counsel against a second marriage after the death of one of the spouses, as this might be construed as adultery. Tertullian claimed that Christ had abrogated the OT law permitting divorce, and in so doing outlawed remarriage. The Council of Elvira (c. 300) vigorously opposed remarriage. The Council of Arles (314) ruled that a husband should not remarry as long as his adulterous wife lived. Jerome (347-420) was against remarriage where the other partner was still alive.

It is interesting to compare the two Latin translations by Jerome and Erasmus, which stand side by side in Erasmus’ 1527 edition, alongside his Greek text.

<p>JEROME—MATTHEW 5:32</p> <p>Dictum est autem: Quicumque dimiserit uxorem suam, det ei libellum repudij. Ego autem dico uobis: quia omnis qui dimiserit uxorem suam, <u>excepta</u> fornicationis causa: facit eam moechari: & qui dimissam duxerit, adulterat.</p>	<p>ERASMUS— MATTHEW 5:32</p> <p>Dictum est autem: quicumque repudiauerit uxore suam, det illi libellum diuertij. At ego dico uobis, quod quisquis repudiauerit uxorem suam, <u>nisi</u> causa stupri, efficit ut illa sit adultera, & quicumque repudiatam duxerit, adulterium committit.</p>
<p>JEROME—MATTHEW 19:3 and 9</p> <p>(3) & dicentes: Si licet homini dimittere uxorem suam quacunque ex causa?</p> <p>(9) Dico autem uobis: quia quicumque dimiserit uxorem suam <u>nisi</u> ob fornicationem: & aliam duxerit, moechatur. Et qui dimissam duxerit: moechatur.</p>	<p>ERASMUS— MATTHEW 19:3 and 9</p> <p>(3) & dicentes ei: Licet ne homini diuertium facere cum uxore sua, qualibet ex causa?</p> <p>(9) Dico autem uobis, quod quicumque repudiauerit uxorem suam,¹² <u>nisi</u> ob stuprum,¹³ & aliam duxerit, is committit adulterium. Et qui repudiatam duxerit: is adulterium committit.</p>

¹¹ See David L. Smith, “Divorce and Remarriage from the Early Church to John Wesley,” *Trinity Journal* 11 (1990) 131-142, esp. p. 131.

¹² The 1516 edition read: diuerterit ab uxore sua.

Note that Jerome used two different Latin words (*excepta, nisi*) to reflect the two different Greek words (παρεκτός, μή) in his text, whereas Erasmus blurred the distinction by using *nisi* to translate both Greek words. For the significance of this see §5.12 below. Jerome's translation closely reflects the Greek¹⁴ in that he believed that a wife might leave a husband who was guilty of sexual perversion; but he held that, "yet he is still her husband and, so long as he lives, she may not marry another." Should she divorce her husband and remarry, both she and her new spouse would be guilty of adultery. They could not receive the Eucharist (Lord's Supper) until they had done penance by agreeing to refrain from further sexual intercourse.¹⁵

Augustine of Hippo likewise taught that the marriage bond holds in spite of adultery or divorce. Unless and until the original spouse dies, remarriage is adultery. Thomas Aquinas noted that nothing, not even adultery, can dissolve the marriage of two communicants. While a husband is bound to divorce (separate?) a wife who continuously commits adultery, he may not remarry (to do so constitutes adultery on his part) unless she dies. Should she repent, he should be reconciled to her, although he cannot be compelled to do so.

Possibly the one man who most influenced all the leaders of the Reformation Churches was Desiderius Erasmus (1466 – 1536), the humanist. He cast scorn on the Church's total prohibition of divorce and on the idea of an indissoluble marriage bond.¹⁶ Being a humanist, he believed that the Church's inflexible teaching on divorce and remarriage was more strict than Jesus taught, and that their inflexibility was contrary to the spirit of the Sermon on the Mount. Commenting on Paul's view, he argued that remarriage after divorce was lawful if based on sound causes other than adultery, listing cruelty and hatred. Coming from a humanist point of view, his desire was only to alleviate the pain in unworkable marriages when reconciliation was not possible.

It was Erasmus who altered the text of the first published edition of the Greek New Testament in 1516, and changed "not" into "except" in Matthew 19:9, by adding EI before MH. This then got into Tyndale's translation (who also believed that a man could divorce for adultery), and from there it infected the entire leadership of the Reformation, even finding endorsement in their Confessions and Creeds. As a consequence, there is not a single denomination today which does not accept Erasmus' humanist teaching on divorce and remarriage. And this is further reflected in every major translation of the Bible in English to the present day. It is not surprising that not a single Reformer continued in solidarity with the Early Church Fathers' teaching on the subject, for all the Ante-Nicene, Nicene and Post-Nicene Fathers held that no matter what a spouse had done, remarriage following divorce was out of the question.¹⁷ The Reformers were innocently led astray by the very doctrine that led them to break with the Roman Catholic church, namely, their doctrine of 'Sola Scriptura'. The desire to go back to Scripture was admirable, but what if that Scripture had been slightly altered in favour of allowing divorce for adultery? The doctrine of 'Sola

¹³ The 1516 edition read: fornicationem. *Stuprum* refers to illicit sexual intercourse (whether forced or not).

¹⁴ Jerome's Latin Vulgate is very much closer to Codex Vaticanus than to any other text-type. It does not have the addition of EI at Mt 19:9.

¹⁵ See *Letters from Selected Works*, in NPNF 6:110, 111.

¹⁶ "Marriage," in *Colloquies of Erasmus* (trans. Craig R. Thompson; Chicago: University of Chicago Press, 1965), pp. 115-16.

¹⁷ See David L. Smith, "Divorce and Remarriage from the Early Church to John Wesley," *Trinity Journal* 11 (1990) 131-142, esp. p. 142.

scriptura' trapped them into accepting Erasmus' doctored Greek text, because that was the only Greek text available at the time, from which all the English translations were made, with the result that thousands of Christians, since the Reformation, have been led astray into second marriages while their partners were still alive.

So established did divorce become in the Reformation Churches as a genuine doctrine of the Lord Jesus (and it found a resonance in the unregenerate heart) that even after Erasmus' addition of EI was removed from Matthew 19:9, the English translations were not changed, and no English translation committee today can change Tyndale's translation. Their version would not sell. *Divorce for adultery is here to stay for all time in the mainline Protestant Churches.* These churches cannot return to the unanimous teaching of the Early Church fathers. The Roman Catholic church alone has held on to the teaching of the Early Church Fathers, but it would be too embarrassing for any Protestant Church to admit this today, hence they will shut their eyes to this deviation from Jesus' teaching and hope no one will notice it. *This is dishonest.*

RESPONSE (§12.20) If the Holy Spirit failed to foresee that His choice of a common phrase, like "every cause", could be read as a technical, legal term later on, or that it was already a legal term, but He had used it in its common sense, dictionary usage, does this not make Him look incompetent?

And are not the Twelve Apostles and the multitude of Pharisees (no doubt many were Hillelite and Shammaite), who became Christians during and just after Christ's ministry (see Acts 15:5), shown to be incompetent in not recognising that the Holy Spirit had used common words in a highly specialised, legal technical sense, and these Spirit-taught, and Spirit-guided leaders had, through their incompetence, misled the entire Christian Church throughout its entire 2000-year old history, until a student uncovered their mistake, and recovered the original teaching of Jesus?

How could the Holy Spirit remain silent when He saw the entire Apostolic leadership make the mistake of not recognising that "every cause" was to be taken in its well-known (according to the author) technical meaning? Why did the Holy Spirit remain silent through the next 2000 years of guiding the Church, and only decide in the 21st century to reveal the real Truth behind the common words, "every cause" to one man?

RESPONSE (§12.21) The practical implications of this new 'revelation' by the Holy Spirit to one man in the Western Church in the 21st century, is that the practice of the entire Christian Church had been wrong from virtually the very birth of the Church in Jerusalem. The author of the new 'revelation' acknowledges that the Holy Spirit failed in this minor doctrine (as he sees it) to bring the Church back into line immediately with the original, legal definition of the term "every cause". If the doctrine was 'minor', the practical hardships that it created were not for millions of Christians.

RESPONSE (§12.22) The odd thing about this new 'revelation' is that the dictionary definition of "every cause" is no different from the claimed legal definition, which also means "every cause".

END OF REVIEW OF CHAPTER 12

CHAPTER 13. CONSPIRACY?

At the end of chap. 12 the author noted, "But it still seems strange that the early church itself did not notice that their teaching had changed" (p. 139). There is the assumption here that the author's interpretation had once been the Apostolic practice and that the Apostolic teaching had been changed (some time after AD 70).

RESPONSE (§13.1) We have no evidence that the author's new interpretation had ever been the original teaching of the Church, or that it ever existed before he 'discovered' it.

The author acknowledges that Mosaic/Rabbinic law did not allow women to initiate a divorce, so when a divorce document from Murabba'at was discovered which gave a very different picture of women divorcing their husbands, the author claims that it was deliberately suppressed by Jonas Greenfield to whom it had been given in 1951, because it undermined the rabbinic position which was that only men initiated divorce proceedings (p.141). Like many other Jews, Jonas Greenfield believed that 1st- and 2nd-century Judaism represented a golden age when the Rabbinic law was kept very faithfully. This document became proof that this was not the case, hence the author believes this was the reason why it was never published in Greenfield's lifetime. It was published after his death in 1995. It appears that the document was a divorce certificate written on behalf a wife to her husband.¹⁸ The document is fragmentary and therefore it is not certain if it cites the divorce certificate that her husband sent to her previously (so Adriel Schremer in *HTR* 91 [1998] 195-202), or that a wife wrote it and sent it to her husband (so Tal Ilan in *HTR* 89 [1996] 195-202), or that a wife had it written for her and then she sent it to her husband (so D. Instone-Brewer in *HTR* 92 [1999] 349-57).

In the author's article he notes a 5th century BC document of wifehood from Elephantine which includes the right of the wife-to-be to divorce her husband-to-be should the need arise:

Tomorrow or (the) next day, should <the wife> stand up in an assembly and say, "I hated you [שנאתי אות אסחור בעלי]¹⁹; I will not be your wife²⁰" silver of hatred is on her head. She shall give²¹ to <her husband> in silver 7 shekels, 2 quarters, and all that she brought in her hand she shall take out, from straw to string.²²

Porten and Yardeni's translation is:

Tomorrow o[r] (the) next day, should Miptahiah {Eshor's new wife} stand up in an assembly and say: "I hated Eshor my husband," silver of hatred is on her head. She shall place upon the balance-scale and weigh out to Eshor silver, 6[+1] (=7) shekels, 2 q(uarters), and all that she brought in in her hand she shall take out, from straw to string, and go away wherever she desires, without suit and without process.

A. Cowley translates the passage as:

To-morrow *or* another day (if) Miphtahiah should stand up in the congregation and say, I divorce Ashor my husband, the price of divorce (shall be) on her head; she shall return to the scales and weigh out to Ashor the sum of 7 shekels 2 R and all that I have put into her hand she

¹⁸ David Instone-Brewer, "Jewish Women Divorcing Their Husbands in Early Judaism: The Background to Papyrus Se'elim 13," *HTR* 92 (1999) 349-57. See also his article, "Deuteronomy 24:1-4 and the origin of the Jewish Divorce Certificate," *JJS* 49 (1998) 230-43.

¹⁹ The translation "I hated you" is inaccurate. It should be: "I hated Eshor my husband."

²⁰ Instone-Brewer has added the words "I will not be your wife," which are not in the text.

²¹ This translation is inaccurate. The text reads: "She shall place upon the balanced-scale and weigh out to Eshor silver, . . .", which is the translation of Porten and Yardeni, vol. 2, p. 33.

²² Instone-Brewer's inaccurate translation has clearly not been taken directly from Bezalel Porten and Ada Yardeni, *Textbook of Aramaic Documents from Ancient Egypt* (Jerusalem: Hebrew University, 1986-96), vol.2, p.33, though it is clearly based on it.

shall give up, both shred(?) and thread, and she shall go away whither she will, without suit or process.²³

This document also has a *vice versa* clause requesting a divorce by the husband-to-be to divorce his wife-to-be should the need arise. Porten and Yardeni's translation is:

Tomorrow or (the) next day, should Eshor {Miptahiah's new husband} stand up in an assembly and say: "I hated my [wif]e Miptahiah," her *mohar* [will be] lost . . . and she shall go away wherever she desires, without suit or without process.

Note that in both hypothetical cases the wife leaves the husband's home, which is how the law in Deuteronomy 24:1-3 was framed by men for the advantage of men.

By the mid-second century AD something very similar to the Elephantine divorces was occurring in Palestine and was accepted as legally binding by R. Yose b. Halafta (yKet. 5.8):

Said R. Yose, "In the case of those who write in the marriage settlement, 'If he should hate,' 'If she should hate,' this is a stipulation concerning a monetary matter, and such a stipulation remains in effect [despite the circumstances of the break-up of the marriage]."²⁴

The author quotes Philo's work "The Special Laws" (*Spec.Leg.* vol. VII, III.30). This part deals with the Sixth Commandment, "You shall not commit adultery." At III.11, of male adulterers he recommends that, "Such persons must be punished with death," which would be in accordance with Leviticus 18:7ff.

Philo next reports that Moses "does not allow the same man to marry two sisters either at the same time or at different times, even if the person in question has repudiated the one he married first." (III.27) Here Philo follows Leviticus 18:18 very closely. He then moves on to Deuteronomy 24:1-3, "Another commandment is that if a woman after parting from her husband for any cause whatever [καθ' ἣν ἄν τύχη] marries another . . . she must not return to her first husband but ally herself with any other [ἀλλὰ πᾶσι τοῖς ἄλλοις] rather than to him, because she has broken with the rules that bound her in the past and cast them into oblivion when she chose new love-ties in preference to the old."

Philo judges that the wife was to blame for walking out of her marriage and seeking another love-match with another man. She is not divorced for adultery. So the text could mean that she had been divorced because she wanted a divorce, in order to marry her second love. Philo then sees her punishment (in not being able to return to her first husband) as a punishment for walking out on her first love. The footnote in the translation reads: "Apparently he [Philo] understands the text as meaning that the remarriage shows that there was no real reason for the divorce." He has nothing but scorn for the man who marries the divorced woman of Deuteronomy 24:1-3. He says,

And if a man is willing to contract himself with such a woman, he must be saddled with a character for degeneracy and loss of manhood. . . . and has lightly taken upon him the stamp of two heinous crimes, adultery and pandering. For such subsequent reconciliations are proof of both. The proper punishment for him is death and for the woman also. (III.21)

By coincidence Philo (out of disgust) and Jesus (out of His teaching) agree that the man who married a divorced woman was committing adultery and deserved to die.

Philo notes that the set punishment decreed for adultery is death (III.58). He makes no reference to divorce as an alternative to the death penalty. Philo

²³ A. Cowley, *Aramaic Papyri of the Fifth Century B.C.* (Oxford: Clarendon Press, 1923 p.46.

²⁴ So D. Instone-Brewer's *HTR* 92 (p.356) article.

notes that where a man rapes a virgin, if he is permitted to marry her, he cannot divorce her; the union is for life (III.70).

A betrothed wife is regarded as a wife, by Philo, because she is his wife in all but deed. Betrothal is the equivalent of marriage and therefore if she willingly or unwillingly has intercourse with another man it "is a form of adultery" (III.72).

And therefore the law ordains that both should be stoned to death, if, that is, they set about their misdeeds by mutual agreement with one and the same purpose. For if they were not actuated by the same purpose, they cannot be regarded as fellow-criminals, where there was no such fellowship. Thus we find that difference of situation makes the criminality greater or less. Naturally it is greater if the act is committed in the city and less if it committed outside the walls and in a solitude. For here there is no one to help the girl, though she says and does everything possible to keep her virginity intact and invulnerable, As for the man who perpetrated the violation, justice pursues him everywhere, and difference of situation lends him no help to make good his outrageous and lawless conduct . . . [he must die]. (III.72-76)

Here Philo agrees with the demand for stoning the woman taken in adultery as in John 8. In *Apion* 2.215, Josephus says that the penalty for violating an unmarried girl is death; but he must be there referring to the case of a woman who has been betrothed.²⁵

The author in his *HTR* 92 (p.356) article notes that, "Some rich or influential Jewish women divorced their husbands under the Roman law."²⁶ Josephus regarded this as contrary to Jewish law, saying, "For it is (only) the man who is permitted by us to do this, and not even a divorced woman may marry again on her own initiative unless her former husband consents" (*Ant.* 15.259-60).

The author also notes that, "Like the Elephantine divorces, this was based on a statement of 'hatred'²⁷ and a financial compensation." It is clear from the use of 'hate' in Deuteronomy 24:1-3 that this word had not yet become a technical term (if it ever was, as some claim), because it is paralleled by "an indecent thing" as a reason for a divorce. In Deuteronomy 22:13, 16, the groom hates his new bride but he is not allowed to divorce her "all his days" (Dt 22:19). Here 'hate' cannot be synonymous with 'divorce'.

W. Falk concluded that the Elephantine-type of divorce was "common in Judea after the Destruction. . . . It may be assumed that in such a case the wife could apply to court and demand that the husband be forced to divorce her."²⁸

There is some confusion in the Mishnah over the details of divorce. If we look at the writ of divorce, as noted in the Mishnah *Gittin* 9:3, it reads, "Lo, you are permitted to any man," but Josephus' formulation, namely, that the husband states he will have no further relations with her, is expressly invalid, according to *Qiddushin* 5b, which states,

If he gives her [the bill of divorce] and declares, 'Behold, you are sent forth,' 'Behold you are divorced,' or 'Thou art [henceforth] permitted to any man,' then she is divorced. [But if he declares,] 'I am not your husband,' 'I am not your master,' 'I am not your betrothed,' there are no grounds for fear [i.e., the divorce is definitely invalid].

Significantly, a deed of divorce that has come down to us on papyrus, dating from 13 BC (*BGU* 1102 = *CPJ* 2.144²⁹) is not in accordance with the

²⁵ Steve Mason (ed.), *Flavius Josephus: Translation and Commentary* (Leiden: Brill, 2000), 3.427 n. 809.

²⁶ Josephus recorded that Salome divorced by issuing a *repudium*, a Roman divorce certificate (*Ant.* 15.259-60). Other women in the Herodian family were likewise known to divorce their husbands, for example, Herodias (*Ant.* 18.109-11), Berenice, Drusilla, and Mariamme (*Ant.* 20.141-47). Even Josephus's own wife walked out before he could divorce her, but without giving him a divorce certificate of any kind (*Vit.* 415).

²⁷ D. Instone-Brewer claims that this was originally an ancient Near Eastern technical term for "divorce." See R. Yaron, "On Divorce in Old Testament Times," *Revue internationale des droits de l'antiquité* 3 (1957) 117-28, esp. 117-19; Raymond Westbrook, "Prohibition of Restoration of Marriage in Deuteronomy 24:1-4" in Sara Japhet, ed., *Studies in Bible*, 1986 (Scripta Hierosolymitana 31; Jerusalem: Magnes, 1986) 387-405, esp. 399-402.

²⁸ W. Falk, *Introduction to Jewish Law of the Second Commonwealth* (Leiden: Brill, 1978) 2.310-11.

Mishnah either, because it adds that the husband is permitted to marry another woman, and this violates the biblical prescription that it is the husband who writes the bill of divorce, but this divorce document states that the husband and wife “agree” that the marriage-agreement is void.³⁰ The Mishnah was only starting to come together in the 2nd century AD (the Palestinian Talmud came into existence *ca.* 400-450 AD, followed by the Babylonian *ca.* 500-600 AD). We have noted a number of significant differences between what is recorded in the Mishnah and what is recorded in Philo, Josephus and the New Testament. The most significant one is that by the time the Mishnah was put together, the Jews had no State, and consequently they came under the laws of the lands to which they were scattered. The use of the death penalty was taken away from them, therefore they had to find an alternative. The use of the Temple was taken away from them, so they had to find an alternative to sacrificing. But while they were still on their own land, Philo, Josephus and the New Testament (PA) bears witness to the death penalty being still in force for adultery. So we must be cautious about using the Mishnah as a reliable witness to the customs in Jesus’ time. The material in the Mishnah and Talmuds did not begin to be collected until the middle of the third century AD and even details of Hillel and Shammai are meagre and inflated, so that Hillel is placed almost on a par with Moses. If we had Gospels written on the same time scale that the Mishnah was written, very few of us would accept them as reliable.

That the Jews were in control of the death penalty on religious/ethical grounds in Jesus’ day is clear from their attempt to stone Him twice for blasphemy (Jn 8:59; 10:31; cf. 11:8). Even the religious leaders feared they could be stoned by the people if they denied that John the Baptist was a prophet (Lk 20:6). When Jesus encouraged the sinless to stone the woman taken in adultery (Jn 8:8), was this an illegal request? It would appear that the Roman authorities granted the Jewish leaders autonomy in matters to do with their Torah Law. There is no evidence anywhere in Jewish rabbinical literature that divorce was substituted for the death penalty in the case of adultery. This has enormous significance for the way Jesus handled the issue of fornication in Matthew 5:32 and 19:9.

RESPONSE (§13.2) The author, in his *Marriage & Divorce in the Church*, is slightly disingenuous in his presentation of the possible motive for the non-appearance of the Murabba’at fragment of a divorce document, since he acknowledges in a long foot in his *HTR* 92 (1999) article (p.352 n 9) that there were many sources documenting the ability of women to divorce their husbands. It was not as if the Murabba’at fragment was the only evidence for such a practice. The fragment has been dated to the second century after Christ. The Elephantine divorce document is dated about 441 BC. It was published by A. Cowley in 1923.

RESPONSE (§13.3) The author is also being disingenuous in his crafting of his statement, “It is significant that the woman was not citing any particular fault by her husband, . . . She appeared, instead, to be basing her divorce on ‘Any Cause’ even though this type of divorce was, strictly speaking, only available to men” (p. 142). In fact, the document says nothing about the grounds for divorce. *It is silent.* So there is no ‘appearance’ at all to justify making a reference to the

²⁹ *Corpus Papyrorum Judaicarum*, ed. Victor A. Tcherikover, Alexander Fuks, and Menahem Stern, 3 vols. (Cambridge MA: Harvard University, 1957-64), see 2.144.

³⁰ See Steve Mason (ed.), *Flavius Josephus: Translation and Commentary* (Leiden: Brill, 2000), 3.428 n. 812.

author's technical (but non-existent) 'Any Cause' divorce. But if one keeps mentioning the existence of a special, technical 'Any Cause' divorce long enough and often enough, then, like the king's new clothes, many may begin to believe it exists.

RESPONSE (§13.4) The author believes that "By the early 2nd-century, the 'Any Cause' divorce had taken over to such an extent that the Biblical divorces for neglect, which early 1st-century Judaism allowed women to initiate, had already been forgotten, even by Jewish scribes."

It is difficult to see how "divorces for neglect" (using Exod 21:10) could be forgotten, when they must have come under the all-encompassing 'hate' divorce. The Elephantine 'hate' divorce was a unisex law, in that the initiative to divorce was open to either sex to set in motion. If a wife was neglected she could initiate the 'hate-cause' to end the marriage. The divorce for neglect was not so much forgotten by the Jews as subsumed under the 'hate' divorce.

RESPONSE (§13.5) The author appears to believe that by the early 2nd-century the 'Any Cause' divorce had taken over all other grounds for divorce. It is very probable, however, that his 'Any Cause' divorce originated with Moses' 'every cause' divorce law in the 15th century BC. We have no evidence that a Hillel 'Any Cause' divorce ever existed as a distinct, sectarian, document.

THE ORIGIN OF THE "EVERY CAUSE" DIVORCE

It is common in Greek to use the singular adjective "all" and to follow it with its singular noun, in the case of Matthew 19:9 it is "cause". So this is a standard Greek construction. It would be quite proper to translate this as "every cause", but not to translate it by "any cause", which has a different meaning. The question Jesus was asked was: "Is it right to divorce for *every* cause?" He was not asked, "Is it right to divorce for *any* cause?" The former question assumes that divorce is obtainable for *every* cause you can think of, and the query is, "Is this right?" The latter question wonders if there is just possibly *one* cause by which a divorce might be obtainable, and the query is, "Jesus, aren't you being a bit extreme in not allowing divorce for *any* cause, not even *one*?"

Since the Greek has "every cause" and not "a cause", it appears that the questioners could be either Hillelites or Shammaites. If the question comes from the Shammaite Pharisees, there is a hint of incredulity in the thought that divorce could be obtained for *every* cause imaginable. This, they would assume Jesus would never agree to. What they did not expect was that He would not grant them divorce for a single cause, not even adultery. Adultery, like all other sins, had to be forgiven, as His Father had forgiven them all their sins with no exceptions.

If the question had come from the Hillelites then they were looking for reassurance from Jesus that Deuteronomy 24:1-3 supported their interpretation and contention that Moses gave them permission to divorce for "every cause", which of course, is correct, because Moses did use two terms that were so broad in their scope and unqualified, namely "an indecent thing," and "hate", that every sin was just about covered by them. The first term would cover all inappropriate behaviour of a sexual nature (but not adultery, which was punished by death), and if you could not get rid of your wife using that cause, Moses gave them "hate" which was a 'catch-all' term, which would catch their

wives for any non-sexual excuse. So, whichever way the wives turned they could be caught out and thrown out. Moses gave their husbands total freedom to divorce for any and every excuse that they could pack into the two general terms mentioned in Deuteronomy 24:1-3.

So Moses was not so much concerned to *limit* the grounds for divorce as to *limit* the confusion over which wife belonged to which husband. Hence the point of the law in Deuteronomy 24:1-4 was not so much to set out the grounds on which to obtain a divorce, as to avoid bigamy or polygamy. Therefore to approach Deuteronomy 24 with the question: What limits or special grounds did Moses lay down to obtain a divorce? is the wrong question. Moses gave them total freedom to divorce on any grounds they chose to nominate. He does not qualify what "hate" means. It is an emotion. It is subjective. He does not inquire whether the hate was justified or not, or whether the hate had to be limited to hate for some sexual deviation. No, the sky's the limit. All a man need to say in an Elephantine court was, "I hate my wife," to obtain a legal divorce. He is not asked to specify the reason why he hated his wife. It is sufficient in an Elephantine court of law to simply state "hate" as the reason.

It was sufficient in a Mosaic court of law to simply state "hate" as the reason. The Elephantine divorce document reads:

Tomorrow or (the) next day, should Eshor {Miptahiah's new husband} stand up in an assembly and say: "I hated my [wif]e Miptahiah," her *mohar* [will be] lost . . . and she shall go away wherever she desires, without suit or without process.³¹

This is straight out of Deut 24:1-4, where 'hate' is the grounds for divorce, and it shows how easy it was to obtain a divorce. He notes that the wife could do the same to her husband.

Tomorrow o[r] (the) next day, should Miptahiah {Eshor's new wife} stand up in an assembly and say: "I hated Eshor my husband," silver of hatred is on her head. She shall place upon the balance-scale and weigh out to Eshor silver, 6[+1] (=7) shekels, 2 q(uarters), and all that she brought in in her hand she shall take out, from straw to string, and go away wherever she desires, without suit and without process.

Note that in both hypothetical cases the wife leaves the husband's home, which is how the law in Deuteronomy 24:1-3 was framed by men for the advantage of men. She did not get half the property. Because this Elephantine document was drawn up before a marriage took place, (it is a Wifhood Agreement), it can only deal with hypothetical grounds for divorce, and it is interesting that the global term used to cover every ground is the unqualified term "hate".

So, as far back as 1446 BC, when Moses first used the unrestricted, global term "hate" to cover a broad range of grounds for divorce, divorce in Israel was open season all the year round for hard-hearted husbands to divorce their wives for every and any cause that came under "hate". The Elephantine document is revealing, in that it is a snapshot of what was probably happening back in Moses' day. It shows that man's unregenerate nature was as strong under Moses as it was in the Elephantine colony, and as it was in Jesus' day.

"Every Cause" divorce originated with Moses, not with Hillel. Hillel was not saying anything new: Elephantine confirms this. And it was still going strong in the mid-second century after Christ, for something very similar to the

³¹ See Bezalel Porten and Ada Yardeni, *Textbook of Aramaic Documents from Ancient Egypt* (Jerusalem: Hebrew University, 1986-96), vol.2, p.33.

Elephantine divorces was occurring in Palestine and was accepted as legally binding by R. Yose b. Halafta (yKet. 5.8):

Said R. Yose, "In the case of those who write in the marriage settlement, 'If he should hate,' 'If she should hate,' this is a stipulation concerning a monetary matter, and such a stipulation remains in effect [despite the circumstances of the break-up of the marriage]."

In the light of this brief survey it is surprising that we are told, "The question which the Pharisees asked Jesus makes sense when we know about the new 'Any Cause' divorces at that time" (p.154). Here the author calls the 'Any Cause' divorce a 'new' kind of divorce. But it would appear to have originated with Moses and there is evidence that it was practiced well into the 2nd century AD.

The author states that, "The purpose of this book has not been to argue for a new interpretation of Scripture but for an *old* one – i.e. the interpretation of the hearers and readers of the words of Jesus and Paul in the 1st century" (p.148).

Having explored the possibility of a Jewish cover-up over the Murabba'at fragment, the author then uses it to make a similar allegation about a possible Christian cover-up over the original teaching of the Apostles regarding Jesus' teaching on divorce (p.142). "Both Judaism and the Christian church can be equally guilty of ignoring important findings in order to maintain the status quo" (p.142). He suggests that the 2nd-century Christian Church lost the original teaching of Jesus on divorce, "because changes in society during the life of the early church led it to emphasize a different message in Jesus' words" (p.143).

The initial impression is that the Apostolic Church lost the teaching of Jesus, but the author seems to place the "changes in society" in the early 2nd-century, rather than in the era of the Apostles themselves (pre-70 AD). This becomes clear in his summing up, "Changes in society were also the incentive for the Church Fathers to accept a different interpretation of Jesus' teaching because they needed a way to turn the church away from the hedonistic world of the 2nd century" (p.148). Here the author assumes what he needs to prove. Did the Church accept a different interpretation to the one it practiced from the beginning?

Given the author's hypothetical scenario of how his interpretation was changed by the 2nd-century Church, then the objections raised in §§12.1-5 above still stand.

RESPONSE (§13.6) The object of Chapter 13 is to sow doubt in the mind of the reader that the current practice of the Church does not reach back to the Apostles themselves. The author believes that the present practice of the Church grew out of a misunderstanding in the early 2nd-century of the same Greek text that the Apostles used. Whereas the Apostles mentally put single quote marks around the common words "every cause" (in Mt 19:9), those who came later read the same words without the single quote marks. And without the single quote marks the same words ceased to be read as a legal phrase, which meant something different from their dictionary meaning.

Even if the author claims that "every cause" in its legal meaning, and "every cause" in its dictionary meaning are two different concepts, he has never spelled out what this difference is, so the objection at §12.22 still stands.

It is one thing to allege a cover-up by Jewish scholars and another thing to allege that the Church did the same over divorce. Assertion is not the same as proof.

The author states, “In the context of this emphasis against sex, it was natural that the 2nd-century Church would assume that Jesus taught remarriage was equivalent to sexual immorality and would not be surprised when he [Jesus] appeared to identify remarriage with ‘adultery’” (p. 145). He also states, “The stand which the 2nd-century church took against sexual immorality made their new emphasis against remarriage (a misinterpretation of Jesus’ teaching) seem normal. Once this new interpretation had become church doctrine it was difficult for the church to come to terms with the fact that a misunderstanding had taken place” (p.154).

RESPONSE (§13.7) The author assumes what he needs to prove, namely, that the Church became aware that it had misunderstood and departed from Jesus’ teaching. Also, he assumes the Church—spread out as it was throughout the entire civilised world by this time—could, *en masse*, go astray from a tradition which had been firmly in place for over a hundred years. We might expect one or two bishoprics to misunderstand matters of doctrine from time to time, but to conjure up a scenario in which the entire Church, numbering thousands of churches and communities by this time, stretching from Persia through to Spain, all mysteriously switched away from Christ’s teaching, without leaving a single trace anywhere of its previous practice, is a scenario too far. It is child’s play to conjure up scenarios without facts; it is not so easy when there are facts to overcome. The one fact the author cannot deny is that the Church has been consistent from the beginning in taking the words “every cause” in its normal, dictionary sense.

RESPONSE (§13.8) The author’s quotation comes after a section skimming over the idea that mainstream Christianity had fears about sex, and tended to suppress it in favour of virginity. But the teaching of Scripture was clear that remarriage after the death of a spouse was not a sinful state. Indeed, Paul urged younger widows to remarry as a means of avoiding sin. If Paul had any reservations about marriage it was channelled, as far as men were concerned, in the direction of being single-minded in the service of Christ. This, for him, was the direction Christian young men, in particular, should be thinking. Marriage was no longer a compulsory duty as it was for every Jewish male. “Remain in the calling in which you were called,” was his guiding principle when it came to freeing up as much time as possible in the service of Christ. It was in following through the spiritual logic in this guiding principle that led to a celibate priesthood some 900 years later.

But we have no evidence at all that “Jesus taught remarriage was equivalent to sexual immorality,” and still less that any Church Father “would not be surprised when he [Jesus] appeared to identify remarriage with ‘adultery’”.

The author is guilty of reading back quite bizarre ideas, which he has taken from later periods, into the 2nd-century period. He does not quote a single 2nd-century Church Father who taught that *biblical* “remarriage was equivalent to sexual immorality,” or who identified *lawful* “remarriage with ‘adultery’.”

The author acknowledges that the early Church was unanimous in its rejection of the Old Testament laws of divorce and remarriage. But he imagines that this rejection created a problem for them and that they were embarrassed at their rejection of these old laws (p.145).

RESPONSE (§13.9) There was no embarrassment. The author has imposed this on them. Jesus had freed them from the laws of the Sinaitic Covenant. He had become the mediator of a far better Covenant, which lifted its members to a level of fellowship not experienced by many under the Old Covenant. The distinctive advantage being that Jesus would send the Holy Spirit into the life of every individual who accepted Him as Lord and Saviour. The New Covenant was not a revised Old Covenant, but was a new creation with nothing carried over into it but what had already been before it at “the beginning of the creation”.

The author has imposed “embarrassment” on the early Church Fathers because he is coming from a different view of the relationship between the two Covenants. He believes that the Christian can take advantage of the old Mosaic Law and can move in and out of it at will, choosing what to accept and rejecting what he does not find convenient. Given his scenario, he thinks the early Church Fathers *should* be embarrassed, and so he *imposes* it on them. He says, “What was more difficult to explain was why their teaching was so different from the Old Testament” (p.145). The short answer is that Jesus made the difference. He fulfilled the Law for them, and freed them from its ‘prison’. They were no longer under any obligation to keep any law in the Mosaic Covenant. They were free, so why should they shackle themselves by going back into ‘prison’?

The author goes on, “They had to justify why Moses said that God allowed divorce and remarriage but Jesus seemed to condemn both in the strongest language” (p.145). Origin gave the correct answer when he pointed out that Moses gave them the law of divorce to supply what was lacking in God’s law. God was against divorce and hated it. He didn’t give it to Israel, Moses did. Jesus, too, stated that Moses, not God, gave them their law of divorce as a concession to their evil ways. Jesus unceremoniously brushed aside the Mosaic divorce law and took the Church by the hand back to Genesis 2:24 and pointed to His Father’s statement there as the new model they were to follow from now on with the help of the Holy Spirit.

The author notes, “Jesus’ silence about the other Old Testament grounds for divorce is unsurprising when we find that all Jews in Jesus’ day accepted their validity” (p.154). The assumption here is that if Jesus’ contemporaries accepted the old Mosaic system, then Jesus must have accepted it too.

Note the confusion over the nature of the New Covenant, which is a completely different system for living a life pleasing to God when compared to the Mosaic system, which the Jews in Jesus’ day were still under. Jesus does not endorse a single grounds for divorce that obtained under the old, obsolete system for living.

The author has a defective view of the relationship between the two Covenants. There is both discontinuity and continuity. He has got them confused. Under the New Covenant the entire Mosaic system of divorce was abolished and replaced with Genesis 2:24, which was the system in place before the Mosaic system was imposed on the entire people of God until the Messiah would come.

The author states: “Paul’s teaching about ‘separation’ relates to the Roman practice of divorce-by-separation” (p.155). He refers to Erasmus who permitted remarriage after divorce, and notes that all the Reformers followed his lead. Yet

he was the one who falsified the Greek in Matthew 19:9, by adding EI before MH to create “except”.

The author holds that remarriage can occur after the marriage, not the marriage partner, has died (p.156).

The author holds that, “Jesus added the caveat that we should forgive an erring partner unless they break their vows continuously or without repentance.” (p.157) Where did Jesus add this caveat?

The author states that, “Paul added the caveat that if a divorce takes place without citing broken vows, remarriage is only allowed if reconciliation is impossible.” Where did Paul say this?

DAVID INSTONE-BREWER’S SET OF PRINCIPLES (pp. 157-58) with my response to each of them.

1. The Biblical grounds for divorce are adultery, neglect or abuse, which is equivalent to broken marriage vows.

RESPONSE (§13.10) There are no biblical grounds for divorce. All sins of adultery are to be forgiven. A marriage is for life, either together or separately.

2. No-one should initiate a divorce unless their partner is guilty of repeatedly or unrepentantly breaking their marriage vows.

RESPONSE (§13.11) No-one should initiate a divorce, full stop. What God has joined together let no-one pull it apart.

3. No-one should separate from their marriage partner without intending to divorce them.

RESPONSE (§13.12) Forced separation is not the end of the ‘one flesh’ state. In God’s eyes they are still married. Separation is not a divorce, but an opportunity to work and pray for reconciliation. Remarriage can only take place after one of the partners has died.

4. If someone has divorced or separated without Biblical grounds, they should attempt a reconciliation with their former partner.

RESPONSE (§13.13) Since there are no biblical grounds for divorce, and a partner is for life, anyone who has got a divorce or has separated, is ineligible to remarry anyone else while their partner is still alive. There is no such thing as ‘unbiblical grounds’ because under his first principle ‘neglect’ is a grounds for divorce. Every couple neglects their partner from time to time. When does it become ‘biblical’ or ‘unbiblical’ to get a divorce for ‘neglect’?

5. Remarriage is allowed in church for any divorcee after a service of repentance, unless they have divorced an innocent partner who wants to be reconciled.

RESPONSE (§13.14) Remarriage is a sinful state and an adulterous relationship if the other partner is still alive. Where a Christian, through ignorance, remarries after a divorce, repentance means returning to the first partner as soon as practicable, by divorcing the second partner as quickly as possible, and in the meantime stopping all sexual relations.

DEUTERONOMY 24:1-4

The author assumes that the origin of the bill of divorce in Deuteronomy 24:1-4 was to allow an abandoned wife to separate officially from her husband so that she could remarry without the suspicion of being adulterous—“a situation which God remedied by commanding that the woman should be given a divorce certificate” (p.158).

RESPONSE (§13.15) Under the New Covenant this situation would not arise because forgiveness for hard-heartedness is the only remedy permitted.

The author explains his interpretation of Jesus' position on divorce as follows:

[the] New Testament does not allow divorce at all because marriage lasts till death and Jesus and Paul only allowed exceptions to this rule because they were necessitated by Jewish and Graeco-Roman law. The reason for Jesus allowing divorce after adultery was because it was compulsory for the Jews to divorce after a wife's adultery. (p.158).

But on the next page he notes that:

there was no ruling body with the power to enforce such a command. Jewish society had many religious authorities . . . but none of them could impose their will – except by excommunicating someone from their own synagogue (p.159).

RESPONSE (§13.16) The statement that: "Jesus and Paul only allowed exceptions to this rule because they were necessitated by Jewish and Graeco-Roman law," means that Jesus was not free to formulate His own teaching on divorce. He *had* to adjust to what He found. And what He found was formulated by man. So man's formulation has priority and Jesus must fit around man's teaching, whether this was in accordance with Genesis 2:24 or not.

The author continues, "Likewise, Paul made an exception in the case of separation by an unbeliever, because the Greco-Roman world regarded separation as divorce" (pp.158-59). He also notes,

Paul never actually says "A divorcee may remarry", we saw that some of his teaching assumes that remarriage *is* allowed for Christians. . . . We also found that when Paul told abandoned believers that they could remarry because "God has called you in peace", he was using legal jargon which meant "this case is decided on pragmatic grounds" (p.153).

The author does not understand the mind-set of Paul who disdained worldly courts to judge matters between Christians. Paul did not derive his teaching on marriage and divorce from Roman culture, but from the Holy Spirit.

The suggestion that when Paul wrote "God has called you in peace", he was using legal jargon which meant "this case is decided on pragmatic grounds," is just plain stupid.

END OF REVIEW OF CHAPTER 13

CHAPTER 5 DIVORCE ON DEMAND?

The author states that, "Although the divorce certificate is part of the law of Moses in Deuteronomy 24.1, this groundless divorce for 'men-only' did not become available until about the time of Jesus' birth. Before this, both Jewish men and women could divorce partners who broke their marriage obligations, as defined in the Old Testament {he means on the basis of Exod 21:10-11, which would come under the general accusation of 'neglect', or on the basis of Dt 24:1-4, which would come under 'sexual sins' or 'hate'. Collectively I shall refer to these as the Mosaic grounds for divorce.}.

RESPONSE (§5.1) First, the author believes that before Hillel's groundless divorce for 'men-only' ousted all other forms of divorce in Judea, men and women could divorce each other according to the law in Deuteronomy 24:1-4. This statement is pure conjecture. We have no evidence at all, either in Scripture or anywhere in rabbinic literature, that Moses permitted wives to divorce their

husbands. Moses permitted only husbands to divorce their wives, but not *vice versa* in Deuteronomy 24:1-4. Not even in Exodus 21:10-11 are free-born Israelite women given the right to divorce, because there, slave women, if not properly looked after, could walk out, but they did not get a divorce certificate.

Nowhere does Moses give wives the same right as husbands to divorce their partners. The Law is loaded in favour of the men. It is a deeply discriminatory law and regards wives as having no right to divorce their husbands. Hillel's reform, if it can be called that, seems to be a reaction to the spread of the Elephantine-style divorce (equal rights, or unisex), and a 'Back to Moses' reactionary approach to the issue of divorce.

The Elephantine divorce document (dated about 441 BC) revealed that Jewish men and women did divorce each other by the simple expedient of saying in court, "I hated my wife/husband." The grounds for the hatred need not be stated, it would appear. If this Mosaic-approved 'hate divorce' is not an 'Any Cause' divorce, then what is it?

It should be remembered that the Jewish colony in Elephantine, on the Nile river, was in close touch with Jerusalem, and it is unlikely that they would have issued divorce certificates which would be invalid in Jerusalem. So we can take it for granted that since the Elephantine divorce certificate was based squarely on the 'hate' cause given in Deuteronomy 24:1-3 that it probably reflects what was, or becoming, current throughout the Jewish Diaspora and in Judea. But it was a genuine, Matthean 'every cause' divorce based exclusively on *one* all-inclusive cause—hate. Once this kind of 'one-cause-fits-all' divorce had been introduced (well before the 5th cent. BC), it is difficult to see why anyone would seek a divorce on the 'men only' divorce introduced by Moses and apparently resurrected by Hillel.

It would appear that Hillel put the clock back as far as the Elephantine sexual equality style divorce was concerned. A re-reading of Deuteronomy 24:1-4 convinced him to go for a 'back to basics-style divorce' which removed the Elephantine right that women had been using to divorce their husbands, and reinforced Moses' permission for men only to divorce their wives for any cause.

The author makes the statement that divorces on Mosaic grounds "were in use until about AD 70, but by the time that Jesus was preaching, in about AD 30, they were already being used only rarely. During Jesus' lifetime Hillel's new groundless-style divorce gradually grew in popularity until, by about the end of the 1st century, it had totally replaced divorces based on OT grounds (p.44).

RESPONSE (§5.2) First, the author has assumed that Moses introduced equal rights for women to divorce their husbands, and that Hillel took this away from them. No evidence is given for this, and it would appear to be a very convenient conjecture.

Second, the statement, "During Jesus' lifetime Hillel's new groundless-style divorce gradually grew in popularity" This is pure fabrication. No evidence is given for this, and it would appear to be a very convenient conjecture.

Third, the statement, "it [Hillel-style divorce] had totally replaced divorces based on OT grounds," is also baseless. No evidence is given for this, and it would appear to be a very convenient conjecture.

We know nothing about Hillel's view on divorce. The little we do know concerns the view of the 'House of Hillel'. We know practically nothing about

this 'House's' view on divorce apart from its exegetical difference with the 'House of Shammai' over the meaning of *dābār* in Deut. 24:1.

The author continues: "This new type of divorce was invented by a Rabbi called Hillel (who lived a few decades before Jesus) and was called the 'Any Cause' divorce after the phrase which inspired it in Deuteronomy 24.1 where a man divorced his wife for a 'cause of sexual immorality'" (p.44). An endnote notes that the author has used 'Any Matter' in his other work on the subject and acknowledges that 'Matter' is closer to the Hebrew דָּבָר than 'Cause', which is closer to the Greek αἰτία.

RESPONSE (§5.3) The author does not give the term Hillel used, which makes it difficult to judge whether his choice of term is appropriate or not, or whether the choice has been influenced by the goal sought.

In Deuteronomy 24:1 עֶרְוַת דָּבָר is in construct with דָּבָר so that it should be translated "nakedness-of-a-thing", or "an exposed thing", as, for example, when it refers to a bare, undefended land (Gen 42:9, 12). It never refers to sexual intercourse by a man or a woman. It never refers to adultery or fornication. *It refers to a visual sight which disgusts the viewer.* The full term used: 'erwath *dābār* (עֶרְוַת דָּבָר), only occurs twice in the OT,³² here and at Deuteronomy 23:14 where it is used of Yahweh inspecting the desert camp of Israel and coming across an 'erwath *dābār*. The sight of an 'erwath *dābār* would disgust Him, He says, and cause Him to withdraw from the site—to separate Himself from the uncleanness. The immediate context is human excrement which must be defecated outside the camp and covered over. An 'erwath *dābār* in the camp would lead Him to remove His presence from among them (Deut 23:14) and *this* is the phrase He uses to refer to the deviant behaviour of the defiled woman in Deuteronomy 24:1. From these two occurrences of the construct form we can conclude that 'erwath *dābār* is a visual sight (such as nakedness) which disgusts the viewer. It constitutes a defiling sight. This is confirmed when we examine the context of 'erwāh in its own right. But first, how did the LXX translates these two occurrences?

The LXX translates 'erwath *dābār* in Deuteronomy 24:1 by ἄσχημον³³ πρᾶμα³⁴ and in Deuteronomy 23:14 by ἄσχημοσύνη πράγματος. The Hebrew term 'erwāh (on its own) occurs 54 times in the OT and in the LXX it is translated by ἄσχημοσύνη 41 times and eight times by αἰχμαίειν. The former means, something *indecent, obscene, nakedness, shame, the private parts*. The latter means, *disgrace, scandal, infamy, shame*. Neither term is used for sexual intercourse (right or wrong use) or for adultery or fornication. They are very close translations of the Hebrew term.

The predominant context for the use of 'erwāh / ἄσχημοσύνη relates to human nakedness, especially the nakedness of close, female relatives. The closer the relative, the greater the obscenity was felt to be. The first occurrence of 'erwāh / ἄσχημοσύνη relates to Noah's nakedness as he lay drunk in his tent. His son, Ham, laughed at him, but his other two sons put a garment on their shoulders and walked backwards into the tent so as not to see their father in that state. They were blessed and Ham was cursed by God, who also put great emphasis on His priests wearing undergarments so that their nakedness was not seen when officiating in His Temple (Exod 28:42; 20:26) which incurred the death penalty.

³² For a summary of interpretations of this term, see C. Pressler, *The View of Women found in the Deuteronomic Family Laws* (BZAW, 216; Berlin/New York: W. de Gruyter, 1993), pp. 45-62.

³³ The same idea occurs at 1 Cor 12:23, "our unseemly parts (τὰ ἀσχήμωνα) have seemliness more abundantly." This is a euphemistic expression for the human private parts. It was exposing her nakedness that was in question, not her looks or disabilities or lack of skills, etc.

³⁴ The primary meaning is *a thing done, a fact, a deed*.

It is clear from this analysis of the term *'erwāh* that it refers to something *visual* which produces an *instant reaction* in the viewer, such as the sight of the genital region of a human being. It was probably the instant disgust felt by the husband that induced him to divorce his wife. However, the sight of Bathsheba bathing herself in the sight of king David springs to mind, as one that would instantly shame her husband as soon as he *heard* about it.

In any case, in Deuteronomy 24:1, the wife has not committed adultery or fornication, for which the death penalty was laid down. What she did was expose her private parts. This was a far lesser offence but one which was not covered by any law in the Torah. Since the predominant use of the term is connected with visual nakedness of the sexual organs, it would appear that the wife was divorced for a visual indiscretion. She brought shame on her husband. His disgust led to her banishment from his house.

From this we can draw the conclusion that she was divorced for a cause, namely, she brought shame on herself and on her husband by revealing her nakedness. He did not divorce her in order to marry another woman, or divorce her for no reason—a whim.

After she is banished from her husband's home she remarries (Dt 24:2). Her second husband does not divorce her for repeating her first offence, but because he hated her. The Hebrew reads: "and the latter man hated her (וַיִּשְׂאֵהָ), and written for her a writing of divorce, and given [it] into her hand, and sent her out of his house." The LXX translates it as: "and the last man may have hated her (μισήσῃ) and he shall write for her a scroll of departure and he shall give (it) into her hands and he shall sent forth her out of his house."

Here, the second cause for divorcing the same woman is 'hate'. Hate can be the result of suspicion that a man's wife may have secretly committed adultery against him. In Numbers 5:12-29, the verb 'hate' is used twice of the man's feelings toward his wife.³⁵ A divorced woman often lost her self-esteem and had a low view of herself. She could become depressive and morose. The bottom had fallen out of her world. She had fallen to the bottom of the social ladder—an outcast. She lost her children and home. Philo has nothing but scorn for the man who marries the divorced woman of Deuteronomy 24:1-3. He says,

And if a man is willing to contract himself with such a woman, he must be saddled with a character for degeneracy and loss of manhood. . . . and has lightly taken upon him the stamp of two heinous crimes, adultery and pandering. For such subsequent reconciliations are proof of both. The proper punishment for him is death and for the woman also" (III.21).

Now hate is the opposite of love. It will manifest itself in as wide a range of applications as love does. Both permeate the marriage relationship, one negatively, the other positively. Hate can rise slowly and cumulatively, or in an instant over some bigger issue, which kills off love and respect. Maybe a man can point to one issue that he hated more than another and use that in court to divorce his despised wife, but the Elephantine divorce document of 441 BC, shows that it was sufficient for a wife or a husband to stand up in court and declare, "I hate my wife/husband," without giving any further details, and a divorce certificate would be issued on the basis that Moses permitted the divorced wife to be divorced the second time on the grounds of hate. This second ground that Moses allows for divorce made it extremely easy for any husband to divorce his wife. It becomes a 'catch-all' term, which must have brought every

³⁵ It has been assumed by some that 'hate' was another way of saying 'divorce', which is not appropriate here or in Deut. 24:1-3.

wife under the total domination of her husband. But Moses sanctioned this. Moses is to blame for giving in to the demand 'for any cause'. this law did not come from God.

This second cause could not easily be appealed against, as the first could, which presumably had to be an allegation. But in the second cause the wife was at the mercy of her husband's whim at all times. Divorces granted under the term 'hate' could very easily become groundless divorces, because the husband did not need to specify what he hated in her. Indeed, he may use the term to get out of his present, boring, marriage, and marry a younger wife, who would bear him more sons.

While the Elephantine situation shows that Moses' second ground for divorce (namely, 'hate') was open to the wife to use, she did not get this from Moses. It must have been an innovation in the Elephantine colony. Only males—following the literal wording and intent of the law in Deuteronomy 24:1-4—could divorce their wives. Elephantine shows a more progressive and enlightened attitude toward reciprocity of the rights of the sexes. However, in Jesus' day, He also recognised that wives could divorce their husbands, which must have been happening, otherwise His statement becomes hypothetical. Mark 10:12 reads, "And if, say, a woman may *have* divorced her man, and she may *have* been married to another *man*, she is being adulterous." So, even though the official, rabbinic documents make no mention of wives having the right to divorce their husbands, it would appear that, in practice, they did, probably on the Elephantine model. The fact that Jesus refers to women divorcing their husbands could suggest that Hillel's 'men-only' rule had not yet become dominant in Jesus' day, if it existed at all.

Because the rabbinic documents were drawn up by male rabbis, they may have had a vested interest in playing down the earlier and later developments among women and may have regarded their rights to divorce their husbands as not springing out of the Torah explicitly, but as imports from Greek or Roman cultures. The early 2nd-century AD Murabba'at divorce document shows, however, that women were able to divorce their husbands legally through the courts. But this is not how the Mishnah presents Jewish life, so some caution must be taken and allowance made for male bias in the presentation of Jewish life in rabbinic literature, especially the Mishnah and the Talmuds, and also a strong bias toward Hillel's theology.

The author states, "If a woman did not feed, clothe or share conjugal love with her husband faithfully, he could divorce her and, likewise, if a man . . ." (p.44).

RESPONSE (§5.4) This is nowhere stated in the Torah. Indeed, the economics of the family in 15th-century Israel lay wholly in the hands of the husband, so it is difficult to see how she could withhold her husband's food, etc. from him. The author claims that these grounds for divorce were based on Exodus 21:10-11, but this is careless reading of the text. We need to watch the context here, because Exodus 21:1-11 is concerned with Israelites who through some circumstance, or social status, lost their independence and were subject to the control of a fellow Israelite male. The first case involves a male, vv. 1-7. He can "go out free" after he has served six years. The idea of 'divorce' is out of the question here, but the same term is used of the woman in v. 11.

The second case involved selling off one's daughter, vv. 7-9. She can be "ransomed" but not divorced.

The third case involves ‘taking to him’ another woman, whether as a concubine, or a servant on a par with the male in vv. 1-6. is not stated. She could be a woman bought with a view to providing the Hebrew bond-servant with a wife (21:4). The text actually says, “If another [woman] he takes for him, her food, her covering, and her ointment (or oil), he does not withdraw.” The same three words occur in Old Babylonian law on the exact same topic, where it translates as “food, ointment and a garment” (in that order) (cf. E. Oren, *Tarbiz* 33 (1953/4)). Neither the word ‘habitation’ or ‘sex’ may be the right meaning here. In any case, God would not force a man to have sex with his ‘second’, if “it is evil in his eyes”, as Scripture puts it. It is sufficient that she has all the expectations that a man’s daughter should expect in a family.

I suspect that personal hygiene rated highly among Old Babylonian and Hebrew women, but husbands controlled the purse strings, so that it was impossible for a ‘second’ wife (or concubine) to have the financial independence to buy her own perfumes. So if the ‘second’ wife (or concubine) can keep herself clean (= oils), hide her nakedness (= clothes), and not starve (= food), then she can exist quite comfortably even if she is denied love (and sex). It is clear from the context that this woman is not a free woman. Now, if she is not looked after properly, she “can go out for nothing—without the payment of money”. He cannot sell her off. This is not a case of a free woman taking her husband to court and divorcing him for neglect. The woman in Exodus 21:4 is a lower status woman.

So we do not have any evidence that freeborn, native Israelite women, could divorce their husbands. Hence the conclusion, “so they had to allow women to divorce their husband,” needs to be qualified and limited to lower status women, who may, or may not, be in a sexual relation with their owners.

The author notes the origin of the ‘Any Cause’ divorce. “Hillel asked the question: Why did Moses use the phrase “cause of sexual immorality” when he could simply have said “sexual immorality”? Hillel reasoned that the seemingly superfluous word “cause” [Heb. *dābār*] must refer to another, different ground for divorce and since this other ground is simply called a “cause” [Heb. *dābār*], he concluded that it meant ‘Any Cause’. Hillel therefore thought that two types of divorce were taught in Deuteronomy 24:1: one for ‘Sexual Immorality’ (i.e. adultery³⁶) and one for ‘Any Cause’ (p.44).

RESPONSE (§5.5) First, we have no evidence at all anywhere in rabbinic literature that Hillel or Shammai regarded ‘*erwath*’ as meaning ‘adultery’. The author has assumed what he needed to prove and then he went on to assume that this is what Jesus was referring when He used the term *porneia* ‘fornication’ in Matthew 5:32 and 19:9. The reader should be aware that the foundation of the author’s theory rests on these two assumptions.

Second, if Hillel (the Mishnah credits it to the House of Hillel, not to Hillel himself) has been correctly reported he has made quite a serious grammatical error because *dābār* is in a construct relationship with ‘*erwāh*’ in the form ‘*erwath dābār*’ (עֲרוֹת דְּבָר). The construct state is comparable to an English hyphenated word, and constitutes *one* idea, or *one* object/subject, as in ‘man-of-God’. The main noun is ‘man’ and this is put in the construct form, that is, it is run into the

³⁶ F. I. Anderson and D. N. Freedman’s extensive research into the Hebrew root *znh* (almost exclusively translated by *porneia* in the LXX) demonstrated that passages like Hos 1–3 and Ezek 16 cannot be invoked to support the view that ‘immorality’ (*porneia*) and ‘adultery’ (*moicheia*) are ever used as synonymous terms, see Gordon J. Wenham & William E. Heth, *Jesus and Divorce: Updated edition* (Carlisle: Paternoster Press, 1997), pp. 136-37.

following word, which is 'of-God', which qualifies 'man'. Here *'erwath dābār* means 'shame-of-a-matter', not, 'shame-of-a-cause'. The principle noun is 'shame' and the qualifier is 'of-a-matter'. So just as it would be wrong to split the construct form into two words, "man" and "God", and treat them as if the writer was talking about two objects, so likewise it is grammatically incorrect to split 'shame-of-a-matter' into two words, "shame" and "of-a-matter", and treat them as two objects, which appears to be what Hillel has done, if he has been reported correctly. Unfortunately, the author has not supplied the original words of Hillel, so that it is not possible to check the author's interpretation.

In any case, if Hillel did see two grounds for divorce in "shame" and "a matter", is it correct to alter 'matter' to 'cause' as the author has done? Is it then legitimate to convert 'a matter' into 'any cause', rather than 'any matter'? And is the addition of 'any' legitimate? There is a clear semantic difference between 'a matter' and 'a cause/reason'. Strictly speaking, Hillel would appear to be saying that divorce can be obtained for "shame" and for "a matter" (or 'a thing'). If so, can the author assume that Hillel claimed 'any cause/reason' was a legitimate ground?

I would question the translation 'Any Cause' on two grounds. First, did Hillel (House of Hillel) use the term 'any'; and secondly, who translated Hillel's term *dābār* by 'cause' (αἰτίαν), when the LXX translated it by 'deed' (πράγματος).

The Hebrew noun, *dābār* (דָּבָר) has a broad range of uses, as any dictionary will show, but it is never found in the LXX as a translation for the legal term 'cause' (αἰτίαν). It would appear that it is the author who has imposed this equivalence in his translation of the word *dābār* with an eye to reading Matthew 19:9 with his 1st-century reading glasses.

If the LXX had translated *dābār* in Deuteronomy 24:1 by αἰτίαν, then he would have had some justification for seeing *dābār* behind αἰτίαν in Matthew 19:9. However, in the only two places where the construct form of *'erwath dābār* (עֲרֻת דָּבָר) occurs, the LXX translates *'erwath dābār* in Deuteronomy 24:1 by ἄσχημον³⁷ πρᾶμα³⁸ and in Deuteronomy 23:14 by ἀσχημοσύνη πράγματος. The LXX of the Torah was probably translated around 250 BC. It is significant that in this context it chose to translate *dābār* by the term πράγματος (from which we get the English word 'pragmatic'), meaning 'a deed, an action', and not αἰτίαν. It is not a synonym for αἰτίαν which means 'reason, cause, grounds'. It is used by Pilate of Jesus when he says, "I found no cause of [reason for] death in Him" (Lk 23:22).

It would appear that some nifty linguistic switching around of equivalences has taken place to produce 'any cause' out of the single word 'deed' (*dābār*), by the author. In addition, the linguistic argument is seriously flawed, misleading and inaccurate.

The author goes on, "The Hillelite Rabbis came to two main conclusions about the new 'Any Cause' form of divorce" (p.45).

RESPONSE (§5.6) It would appear that this was not a new kind of divorce but a new justification for an old divorce practice. The author continually falls into the trap of assuming that a new argument for an ancient practice, must

³⁷ The same idea occurs at 1 Cor 12:23, "our unseemly parts (τὰ ἀσχήμονα) have seemliness more abundantly." This is a euphemistic expression for the human private parts. It was exposing her nakedness that was in question, not her looks or disabilities or lack of skills, etc.

³⁸ The primary meaning is *a thing done, a fact, a deed*.

produce a new kind of divorce certificate. Both Moses' divorce law and Hillel's divorce law were 'men-only' systems. There is no difference in outcome between Hillel and Moses. Both men permitted *any* husband to divorce *any* wife for *any* cause. The only difference is that Moses located this universal permission in the word 'hate', whereas Hillel located it in the word 'matter' (*dābār*). This is a quibble that did not alleviate the insecurity that hard-hearted men could threaten any wife with if she did not subordinate herself completely to him.

The author continues,

Firstly, they concluded that an 'Any Clause' divorce could only be carried out by men (because the example case in Deuteronomy 24:1 involves a man who divorces his wife). Secondly, they said that it could be used for *any* cause – such as your wife burning a meal – so although the 'Any Clause' divorce was theoretically based on some kind of fault, this fault could be such a small thing that it was, in effect, a groundless divorce.

RESPONSE (§5.7) If the author is correct that the Hillelite Rabbis examined Deuteronomy 24:1 minutely and split the construct '*erwath dābār*' into two terms, each constituting a separate grounds for divorce, then logically 'a deed' could be anything since the term is not defined, limited, or qualified, so Hillel was, theoretically, correct to say that 'a thing' could be 'any thing'.

But this could not affect the rate of divorce, because up to this point Moses had provided 'hate' as another grounds for divorce and, like '*dābār*', it, too, was left undefined, unlimited and unqualified. So the Hillelite Rabbis could find three distinct grounds for divorce in Deuteronomy 24:1-4, namely:

- (A) A shameful act by the man's wife (exposing herself).
- (B) A deed (This is left unspecified and so open to the whim of the husband to define.)
- (C) Hate (Again, this is left unspecified leaving the wife vulnerable to expulsion from her home at any time of the husband's choosing.)

The Shammaite Rabbis probably agreed with A and C, but they rightly threw out B, *if* they based it on the grammar of the Hebrew language. But because C was a legitimate grounds for divorce in its own right, it was quibbling over nothing not to have B, because B could easily turn into C, that is, 'any deed' could result in 'hate,' and once a husband hated his wife, she could be out the door before nightfall. The introduction of B would not have affected the overall rate of divorce, because those who followed Shammai could get all that those who followed Hillel got, by using C. And C was the prime grounds for divorce in the Elephantine colony in Egypt, because B was only created by Hillel a few decades before the birth of Jesus (or the House of Hillel in the 2nd century after Christ?).

What probably was new in Hillel's reinterpretation of Deuteronomy 24:1 was his insistence that divorce was the preserve of the husband, and according to Moses' intent he was correct. The wife was given no rights by Moses, which the author denies (presumably because this was too blatantly sexist and chauvinist for Yahweh to be the author of). Whether Hillel saw himself returning to a purer form of obeying the letter of the Law, or whether it was a reaction to the spread of the Elephantine-type divorce which permitted wives to divorce their husbands on the grounds of C, is not known. So, while on the one hand, Hillel increased Moses' two grounds for divorce to three, he took away the wife's right to divorce her husband on the grounds that a strict reading of Deuteronomy 24:1-4

mentions only the husband's rights. So, in the end, wives were worse off under his teaching than under Shammai's, unless he, too, excluded wives from divorcing their husbands. We noted, however, under Mark 10:12 that in Jesus' day wives were able to divorce their husbands despite Hillel's attempt to suppress these rights. Whether they did so by exploiting the different interpretations and traditions among the rival schools is not known. It is certain, however, that as early as the 5th century BC Jewish women had the same rights as men to divorce their spouses. There was complete equality in this respect. Whether the Rabbis in Jerusalem accepted these divorces as legitimate is not known. But by the 2nd-century AD we have evidence from Murabba'at that women could initiate divorces. It would appear that the Elephantine-style of divorce had become the dominant practice by this time. Hillel-style divorce was history, but you would not know this reading the Mishnah, which is highly biased in favour of Hillel's point of view.

The author notes,

The 'Any Cause' type of divorce soon became very popular – especially because you didn't need any proof and you didn't have to present your case in court. There was no need to try to prove in court that your wife had neglected you All you needed to do to carry out an 'Any Cause' divorce was to write out a divorce certificate and give it to your wife" (p.45)

RESPONSE (§5.8) This makes sense if the Hillelites were reading the text of Deuteronomy 24:1-4 very closely. For if wives were excluded from divorcing their husbands on the grounds that a strict reading of Deuteronomy 24:1-4 mentions only the husband's rights, then it logically followed that the husband did not have to go through any court, because no courts are mentioned in Deuteronomy 24:1-4. The text simply states that after finding a 'shameful thing', or after he comes to 'hate' his wife, he can write his own bill of divorce, disowning her. No rubber-stamping was required. He was answerable to no court and to no judge for his actions. He was his own judge and jury. No one could interfere with or reverse his decisions, on a strict reading of Deuteronomy 24:1-4.

This DIY-style divorce might have proved popular but it could only have been among the men. Their wives were put in greater fear of instant dismissal through this return to a strictly literal interpretation of Deuteronomy 24:1-4. It was not going to be well received among the ladies. No mention is made of any compensation to her in Deuteronomy. 24:1-4, so she left only in the clothes she wore and nothing else.

The author assumes that Jesus' father, Joseph, planned to use Hillel's new style, DIY divorce (p.46).

RESPONSE (§5.9) This is pure speculation. We have no evidence that Hillel's DIY divorce even existed or was used outside his own circle of fanatic, reactionary literalists. Joseph, being a righteous man, would probably have been an orthodox Jew, a keeper of the Law, not a member of a new sect which dismissed its wives without having to go to court, and put them out on the street in the clothes they stood up in. This new sect took an extreme interpretation of Deuteronomy 24:1-4, searching out new grounds for divorcing their wives using dubious exegetical tools. No marriage was safe while the teachings of this extreme sect was on the rise among hard-hearted husbands who probably revelled in the new freedom Hillel gave them to swap wives whenever it pleased

them, especially for a younger, more attractive one. It must have been harder the older a woman got to find a sixth or seventh husband. The Samaritan woman at the well had had five husbands, and maybe she was typical of many women in Judah if Hillel's DIY divorce was on the rise at this time. It was a good time to be a man, but an evil time if you were a woman, and especially an aging wife.

Would Joseph, a law-abiding, righteous man, be a member of this hard-hearted, male-chauvinist extreme sect? I doubt it. Joseph could have used the provision in Deuteronomy 24:1-3 to divorce Mary quietly, because the law there did not require a man to obtain a divorce from a court, nor did it require him to justify any cause. It rested entirely with a married husband and a betrothed husband when to write out a bill of divorce. No witnesses were required. He simply wrote out a bill and sent her away, and that was the end of the matter. No fuss; no publicity. This was Moses' 'Every Cause' divorce used to its best advantage. It safeguarded the husband's right to expect to marry a virgin.

The author assumes that "by the time of Jesus, almost every divorce was an 'Any Cause' divorce" (p.47).

RESPONSE (§5.10) This is an assertion not backed up with any figures or evidence from the Mishnah. The author may want this to be the case because of his special agenda when it comes to his unique interpretation of "every cause" in Matthew 19:9. The reader should be aware of the goal of the author and how he works his way toward that goal. He has very little hard evidence to back up his conjectured scenarios, therefore he is rich in assertions but poor on facts and hard data. The evil consequences of Hillel's new DIY-style divorce are played down and we are even assured that women would have welcomed it!

Jacob Neusner wrote an informative introduction to the Mishnah,³⁹ which could only make very general observations about the probable time span over which it was written, and the probable time span covered by the material itself. This uncertainty means that the references to Rabbi Shammai and Rabbi Hillel and the 'House of Hillel' and the 'House of Shammai' cannot be dated with any certainty, and consequently, we cannot be sure that Jesus was aware of any dispute going on between these two rabbis over the issue of the meaning of *dābār* in Deuteronomy 24:1, or whether the two Houses even existed in His day. The term 'House' could stand for supporters of these two rabbis. *In which case, we have no way to date the sayings attributed to these 'houses'.* But for D. Instone-Brewer, this information is crucial to his theory. If he cannot prove that there was a dispute over *dābār*, before Jesus' time, then he cannot use Matthew 5:32 as evidence for Shammai's slogan, 'nothing except "Sexual Immorality"';⁴⁰ and if he cannot prove that Hillel's new style DIY divorce was not on everybody's lips and the talking-point of the nation, then he cannot use Matthew 19:9 as evidence for the existence of Hillel's slogan, 'Any Cause'.

The Mishnah covers six major subjects (or Orders) in 62 tractates (*Abot* was added a generation or two later) or 531 chapters. The two Talmuds only came into existence about two hundred years after the closure of the Mishnah (p. 205). The Mishnah was written principally for Jewish householders after AD 135, who were still living in Palestine but without a capital city or Temple, and it was completed by about AD 200 or later (p. 146). Neusner shows that the Mishnah

³⁹ Jacob Neusner, *The Mishnah: An Introduction* London: Jason Aronson Inc., 1989). He has written over 300 books on Judaism.

⁴⁰ The author claims that Matthew 19:9 is translating ELA IM ERVAH (Sifre Deut.269; y.Sot.1.2.16b). The different version at Mt.5.32 follows the slightly different word order used at m.Git.9.10, so perhaps there were two versions of this slogan, he conjectures.

imposed an idealised “Israel” on the people (p. 75), at the centre of which was an ideal ‘householder’ living in a village. This householder was not the family unit. It was an economic unit involving the extended family, and headed up by a male.

Neusner noted that all the rabbis quoted for or against any Jewish teaching, by Judah the Patriarch (the presumed sponsor of the Mishnah), did not go back further than 250 years before Judah’s own day, which was in the third century after Jesus (p. 201). Yet it was claimed that the Mishnah itself was given to Moses on Mount Sinai along with the written Torah, and that both have equal authority (pp. 204-05). One was the written form and the other was the oral form.

Neusner is rightly sceptical, therefore, about the Mishnah’s claims to be as inspired as the Pentateuch (p. 37). He describes it thus: “the Mishnah is a document of imagination and fantasy” (Preface). He wrote:

After it was compiled, the Mishnah was represented as that part of the “whole Torah of Moses our Rabbi” which had been formulated and transmitted orally, so that it bore the status of divine revelation right alongside the Pentateuch. Yet it is already entirely obvious that little in the actual contents of the document evoked the character or the moral authority of the written Torah of Moses. Indeed, since most of the authorities named in the Mishnah lived in the century and a half prior to the promulgation of the document, the claim that things said by men known personally to the very framers of the document in fact derived from Moses at Sinai through a long chain of oral tradition blatantly contradicted the well-known facts of the matter. So this claim presents a paradox even on the surface. (p. 37)

Neusner shows that much of the Mishnah presupposes the destruction of the Temple in AD 70 and the depopulation and levelling of Jerusalem (ploughed over) after AD 135 (Preface, pp. 45-50). It is difficult to see how Moses could convey the contents of the Mishnah when the Mishnah itself is a creation of those who lived after the two Jewish Wars (AD 67-73 and 132-135). It is one thing to acknowledge that many things were transmitted through oral tradition (such as Moses’ law on divorce), and another thing to claim Mosaic ‘authorship’ for a document composed at the end of the second-century AD. This looks like a theory created to give credence to a document that does not carry any divine authority in its own right.

Neusner suggests that the germ of the Mishnah began with a tiny sect (pp. 43, 51) before the destruction of the Temple in AD 70. This group of lay men were united over eating their food according to the cultic rules which were really only applicable to the priests who ministered in the Temple. But they also had other rules which affected who might join them and who were to be kept out. These laws formed a protective boundary between them on the inside and the rest on the outside. Beyond this scanty picture, says Neusner, we cannot go (p. 43). “The reason,” he notes, “is that the Mishnah does not tell us the name of the group represented by the names of Shammai and Hillel and their Houses, Gamaliel, Simeon b. Gamaliel, his son, and others who appear in the Mishnah and who clearly form the earliest stratum of its named authorities.” (p. 43)⁴¹ He adds, “So, for all we know, the concrete matters subject to dispute represent the points at issue for no more than a tiny sector of a much larger group, . . .” (pp. 43-44).

It is not clear what evidence Neusner used to assume that the Mishnah commenced before the first Jewish War, unless it be the report of disputes between Rabbi Shammai and Rabbi Hillel, but these could have been recalled any

⁴¹ The Apostle Paul mentions Gamaliel as his teacher, “I am verily a man which am a Jew, born in Tarsus, a city of Cilicia, yet brought up in this city [Jerusalem] at the feet of Gamaliel, and taught according to the perfect manner of the law of the fathers” (Acts 22:3; cf. 5:34). Gamaliel was the son of Simeon, who was the son of Rabbi Hillel. Gamaliel succeeded as president of the Sanhedrin on the death of his father Simeon. Gamaliel died in AD 52 (18 years before the Temple was destroyed), and his son, Simeon, died in AD 70, during the siege of Jerusalem. According to this genealogy, Hillel may have been born two generations before Jesus (using 25 years for a generation).

time after the fall of Jerusalem in AD 70. If Neusner is correct that the Mishnah commenced before the first Jewish War (AD 67-73), he sees this as being swallowed up by what happened in AD 70. He noted:

The period between the wars (after 70 and before 135 C.E.), marks a transition in the unfolding of the Mishnaic law and system. The law moved out of its narrow sectarian framework. But it did not yet attain that full definition, serviceable for the governance of a whole society and the formation of a government for the nation as a whole, which would be realized in the aftermath of the [two Jewish] wars. The marks of its former state remained. But those of the later character of the Mishnaic system began to make their appearance. Still, the systemic fulfillment of the law would be some time in coming. For in its ultimate shape, the system as a whole would totally reframe the inherited vision. In the end the Mishnah's final framers would accomplish what was not done before or between the [Jewish] wars: make provision for the ordinary condition of Israelite men and women living everyday lives under their own government. The laws suitable for a sect would remain [i.e., the pre-70 commencement stage], to be joined by others which, in the aggregate, would entirely revise the character of the whole. (pp. 49-50)

However, Neusner's statement that the Mishnah contained "everything about how a small group of men wanted things to be" in the aftermath of the catastrophic demolition of the Temple (Preface), suggests that it was the destruction of the Temple that triggered off the sectarian document that was eventually expanded into the Mishnah as we know it today. Of the final work he says, "It is small-minded, picayune [mean], obvious, dull, routine—everything its age was not" (Preface). It "represents the thinking of Jewish sages who flourished in the middle of the second century in the Land of Israel" and collected by a small group of lay men "pretending to be priests" (pp. 43, 44, 46) or "who aspired to act like priests" (p. 49), and as regards meals, "eating like priests" (p.46); "it was a cultic sect, a holiness order, expressing the aspirations of lay people to live as if they belonged to the caste of priests" (p. 51). They lived in a make-believe world, "Matters were to go forward as if the Temple still stood" (p. 47), and as if Israel was a self-governing nation (p. 50), "some of them were priests who pretended that their homes were little Temples" (p. 44).

Neusner's assessment is that the Mishnah was not the work of a committee. If the Mishnah was not the creation of Judah the Patriarch himself, then it was the work of a small group following a fairly strict procedure for handling each topic, such as a uniformity of language and style that is evident throughout it (pp. 4, 12, 19). It has also limited grammatical patterns (p. 35). Neusner judged that:

The Mishnah's formal traits of rhetoric indicate that the document was formulated all at once, and not in an incremental, linear process extending into a remote (mythic) past, (e.g., to Sinai?). These traits . . . are redactional, because they are imposed at that point at which someone intended to join together discrete (finished) units in a given theme. (p. 25)

In other words, we do not necessarily have the original words of the quoted sages, because the material to hand had to be fitted into fixed, grammatical patterns. The work of formulation and redaction go forward together. Patterns are imposed on the ancient material no matter who they come from or who they quote, or in which century they lived (pp. 25, 35).

We may conjecture that when Shammai and Hillel are quoted in their own right, then the assumption is that they uttered the words, but when the words are those of the "House of Shammai/Hillel," they could be the words of supporters of Shammai and Hillel, and date from any time up to the completion of the Mishnah. In other words they probably date from a time after the first Jewish War (AD 70). In which case they would have no relevance for the Gospel period. However, Neusner is of the opinion that the Pharisees of the Gospels could fit the

description of those he envisages who originated the narrow selection of topics in the Mishnah in the first place (p. 44).

From this brief excursus into Neusner's introduction to the Mishnah we can make a few observations.

First, the Mishnah, as it now stands, was put together in one sitting (as it were) because of the limited numbers of patterns that all the material has been shoe-horned into.

Second, it was completed toward the end of the second-century or the beginning of the third century, depending on the dates given to Judah the Patriarch, who appears to have been the sponsor of the work.

Third, the bias of the material is clearly to support the viewpoint of the 'House of Hillel'. Judah the Patriarch had two sons, one of whom was named Hillel.

Fourth, material said to come from the 'House of Hillel' does not necessarily mean that it was said by Hillel. The two 'Houses' may be convenient terms to label sides in a dispute, whose origins may go back to Shammai and Hillel.

Fifth, all the statements relating to Matthew 19:9 and 5:32 are quoted as coming from the Houses of Shammai and Hillel. There is, therefore, no evidence that they go back to the respective rabbis themselves. Further, we have no assurance that the two 'Houses' existed in Jesus' day. The Gospels nowhere refer to a division among the Pharisees, or that a dispute over the meaning of *'erwath dābār* existed at the time Matthew wrote his Gospel.

The author assumes that the question in Matthew 19:3 was centred around finding out Jesus' opinion on Hillel's new-style divorce. So instead of hearing the question: "Is it lawful for a man to put away his wife for every cause?" what the questioners were really asking was: "Is it lawful for a man to put away his wife for 'Any Cause'?" (or: "Is it lawful for a man to put away his wife using Hillel's new 'Any Cause' grounds for divorce?")

RESPONSE (§5.11) If the latter was what the questioners meant then we have a linguist problem. First, the Greek is *πάσαν αἰτίαν*, which means "all cause", which is the Greek way of saying "every cause". It does not mean "any cause", which is how the author has misinterpreted and mistranslated the words. He was influenced by Hillel's 'a thing' (*dābār*), which he assumed was the same thing as 'any thing'.

Secondly, in the parallel account in Mark 10:2 the phrase "every cause" is omitted and the question reads: "Is it lawful for a man to put away a woman?" Now Mark's question does not make sense if Jesus accepted, as all His nation did, that Moses permitted them to put away their wives for various set reasons. It only makes sense if it became known that Jesus was an absolutist when it came to the marriage union, that what God had joined together no man must pull asunder. Therefore there were no grounds at all for any divorce, not even adultery. This would have shocked every man in the country, but have brought terrific joy to every Jewish women throughout the nation and the Diaspora. Here was their champion. This is what they wanted out of their marriages. That Jesus abolished the microscopic, exegetical exercises of the Hillelites in extracting every turn of the screw on their hard-pressed wives, and brushing aside the whole Mosaic system of divorce which the Shammaites were locked into, set Him apart as a heretic, an enemy of Moses.

Given this background, Mark's question becomes highly significant. Whereas every Jew would have said, "Of course it is lawful for a man to divorce his wife. Didn't Moses give a command to divorce them?" The questioners know Jesus' absolutist position already, for Matthew 19:3-12 took place in Jesus fourth year of ministry, so the question was set out in the bluntest form possible using just five Greek words. "Is it lawful for a husband to divorce a wife?" It would tempt Jesus to oppose Moses as God's supreme teacher, and set Himself up as greater than Moses, and so overrule him, and in so doing the Pharisees hoped that Jesus would lose all His followers.

In Matthew's account the question is worded in such a way that again Jesus is put on the spot about His absolutist position over divorce. "Is it lawful for a man to put away his wife for every cause?" Because they were there to tempt Jesus to override Moses they must have worked through the various possible answers that Jesus could give to their carefully crafted question. They might have anticipated that Jesus would give the blunt answer No! which would confirm their suspicions that He had elevated His teaching above Moses'. Going through their minds must have been the thought, "Surely He can't give a blunt No! There must be the exceptions that Moses has stated in Deuteronomy 24:1-4! How could He not grant these? He can't rule out "every cause" can He? Adultery is a clear exception." So the trap was set. But Jesus put them on the back foot by asking them a question, which pitted Moses against God. And Jesus sided with God.

It is possible that the question Mark has transmitted, and the question that Matthew has recorded, were made by different speakers. Maybe other direct questions were asked by others, which have not been recorded. And all their questions were spoken at the same time (in heckler fashion?). But both Evangelists are clear that the group as a whole set out to tempt Jesus to oppose Moses. Moses could not be challenged. He was the supreme authority on all matters of doctrine and practice.

Whichever way Jesus answered the two questions put to Him, He was in trouble, in their judgment. If He said No categorically to both questions He was opposing Moses. Either question trapped Him.

ANOTHER RESPONSE (§5.12) The author has followed a faulty translation of the Greek text of Matthew 19:9, because the use of 'except' fitted in with his translation of Shammai's slogan, 'nothing except sexual immorality'.⁴² Yet no reputable Greek text has εἰ before μὴ at Matthew 19:9. It was inserted by Erasmus in his first edition in 1516, because he believed that a man should be able to divorce his wife for adultery, so by slipping in the little word εἰ before μὴ he completely altered the meaning of Jesus' words. Erasmus may have been influenced by Jerome's Latin Vulgate which translates Matthew 5:32 as "excepta fornicationis causa," "excepting for the cause of fornication" (Douay), and Matthew 19:9 as, "nisi ob fornicationem", "unless for fornication."⁴³ But Jerome was against remarriages so it is unlikely that his translation would contradict his theology.

It took some time for scholars to recognise Erasmus' mistake and remove εἰ before μὴ, but before they did so English translations, such as Tyndale's, had

⁴² The author claims that Matthew 19.9 is translating ELA IM ERVAH (Sif.Deut.269; y.Sot.1.2.16b). This is highly unlikely because ERWATH is never translated by PORNEIA in the LXX.

⁴³ The Douay has the revealing footnote, "Except it be, &c. In the case of fornication, that is, of adultery, the wife may be put away: but even then the husband cannot marry another as long as the wife is living." This was in accordance with the teaching of the early Church Fathers right up to the Reformation.

been made of Erasmus' faulty Greek text, and the damage was done. The damage even entered the Reformation Creeds, where divorce was not permitted "except for fornication", which was precisely what Erasmus believed and had altered the Greek to achieve. No widely circulated English translation today has departed from Erasmus' doctrine, even though there is hardly a single Greek manuscript before AD 1000 to support his addition of EI before MH. It is not surprising, therefore, that the version quoted by the author, the ESV⁴⁴, does not translate the best Greek editions, but carries forward Erasmus' faulty rendering. From the Authorized Version in 1611 to the English Standard Version in 2001, so strong has been the belief in divorce for adultery that although Erasmus' Greek text has long since been discarded, his doctrine has continued to this day in every major English translation which reads, "except for adultery".

The Nestle-Aland 27th edition and the Majority Text are agreed in omitting Erasmus' addition of εἰ before μὴ. The Greek text of Matthew 19:9 could be translated as follows:

1) "Now I say to you that who, say, may have put away his wife—not [divorced by him] on account of fornication—and may have married another woman, is being adulterous."

2) "Now I say to you that who, say, may have put away his wife—not [counting one divorced] on account of [betrothal] fornication—and may have married another woman, is being adulterous."

3) "Now I say to you that who, say, may have put away his wife—not for adultery [since that does not qualify for a divorce certificate but for a death certificate]— and may have married another woman, is being adulterous."

4) "Now I say to you that who, say, may have put away his wife not on account of fornication, and may have married another woman, is being adulterous [against her⁴⁵]." (Or, "she is not guilty of fornication")."

But whichever of the four we prefer they all have one thing in common, Jesus does not make an exception for divorce on account of adultery. It would require EI MH to achieve that.

The reason why all four translations must be rejected is that Greek uses two kinds of negative (A) οὐ, and (B) μὴ. (A) is used with the indicative, which the four translations employ. (B), however, is used for all other moods, and it is (B) that is used in Mt 19:9, therefore the only verb that can legitimately follow is the previous subjunctive "may have divorced". Consequently, the correct translation is: "Now I say to you that who, for example, may *have* divorced his wife—*he may not have divorced her* for fornication—and may *have* married another woman, he becomes adulterous *by marrying her*. And the *man* having married a divorced *wife*, he becomes adulterous *by marrying her*."

Here, Jesus inserts a warning clause, reminding the Jews that divorce for adultery was not permitted by Moses. This was one cause for which Moses made no provision for divorce. I have examined over fifty English translations on the Crosswire web site (<http://crosswire.org/study/parallelstudy>) and only three have understood what Jesus was saying in the so-called "exceptive clause." They are:

Conservative Version (ACV) And I say to you, that whoever may divorce his wife, not for fornication, and will marry another, commits adultery. And he who married her who has been divorced commits adultery.

⁴⁴ The author described this version as "a very accurate scholarly translation" (p. 54).

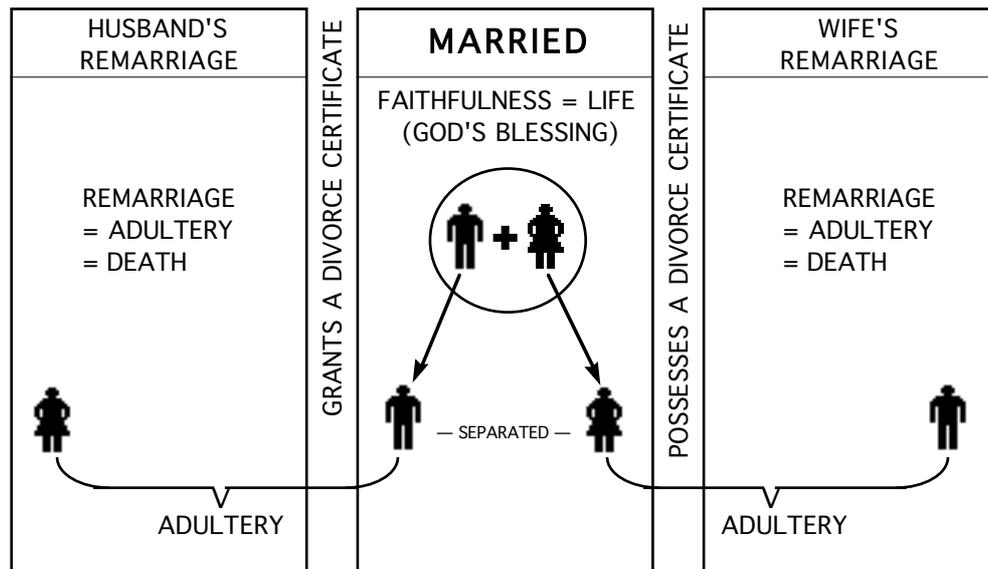
⁴⁵ Added in Mark 10:11.

Analytical-Literal Translation (ALT) “But I say to you*, whoever divorces his wife [but] not for sexual sin and marries another commits adultery, and the one having married the one having been divorced commits adultery.”

Darby Bible (1889) (Darby) But I say unto you, that whosoever shall put away his wife, not for fornication, and shall marry another, commits adultery; and he who marries one put away commits adultery.

Matthew, Mark and Luke are all saying the same thing: no divorce and no remarriage in the New Covenant Church. This is how the Apostles and the Early Church Fathers understood Him.

CHART SHOWING THE CONSEQUENCES OF REMARRIAGE



The circled couple is intended to convey the ‘one flesh’ status that is formed at the union of one male and one female.

The author’s footnote continues,

The version in Mishnah *Gittin* 9.10 is different only by one word because it says “except he has found ‘a matter of sexual immorality’” which is exactly like the different version of Jesus’ saying in Matthew 5:32: “Every one who divorces his wife, except for ‘a matter of sexual immorality’”. The word ‘matter’ in Matthew 5:32 (Greek *logos*) has the same range of meaning as ‘matter’ in Shammai’s saying which quotes Deuteronomy 24.1 (Hebrew *debar*, ‘a word’ or ‘a thing’). I cannot think of any way in which Shammai’s phrase could be translated more accurately into Greek than in these words of Jesus.

RESPONSE (§5.13) Note the second use of the faulty translation of “except” in Mt 19:9. The author uses the same word “except” to translate a different Greek word in Mt 5:32. The text reads:

“But I—I say to you that, who, say, may have put away his wife—apart from (παρεκτὸς) *the matter of fornication*—makes her to be adulterous. And who if, say, may have married *one having already been put away* he is adulterous.”

The author has translated the Greek word *παρεκτὸς* (*parektos*) as if it read the same as in Erasmus’ faulty text, i.e., εἰ μὴ at Matthew 19:9. As a consequence he has distorted the point Jesus was making. The significance for the audience lay in the verb “makes”. To point the finger at any man and tell him that he is responsible for turning his wife into an adulteress is a very grave accusation. But

Jesus makes it. He does so in the following way. Using great authority with the double pronoun 'I—I', He addresses all of them directly ('I say to you') and makes the accusation, "whoever may have put away his wife makes her to be adulterous (if she marries again)." Each man standing in front of Him is made to feel guilty for making his wife marry another man. But Jesus makes an exception, and the exception is this. If the man's wife had been adulterous *before* he divorced her, then he did not push her into adultery, she went that way herself. Jesus embeds the 'exemption from responsibility' clause in his accusation. In effect He was saying, "By divorcing your wives you have forced her to become adulterous, apart from those wives who made themselves adulterous while still married to you. You are not responsible for their adultery in those cases. But if she was a sexually faithful wife and you pushed her out, then you are responsible for all her adulteries after she has left you. She will not be held responsible—you will." That is the significance of the word παρεκτός (*parektos*). It means, "if we leave aside for the moment the case of adultery within the marriage." It was there to excuse those husbands who had wives who had committed adultery *while still married to them*. That is a completely different idea to allowing divorce in the case of wives who committed adultery while still married to them.

In this confrontation with the Pharisees in Matthew 5:31-32, the focus is on the question, Who is responsible for your wife's adultery? Jesus' answer was, "On the one hand, you are, if she was sexually faithful before you divorced her. On the other hand, you are not responsible if your wife committed adultery before you divorced her. Now, which category does your divorce fit into?" If the Pharisee had replied, "I divorced her for a non-adulterous reason." Then Jesus would have said to him, "Then you *made* her become an adulteress." If another Pharisee had said, "I divorced her because she committed adultery," Jesus would have replied, "Well then, you didn't *make* her become an adulteress, did you? So you are not responsible for her adultery." But in saying that, Jesus was not condoning his act in divorcing his wife for adultery, or saying that he was right to divorce her, because that is not the issue He is addressing here. Jesus takes the initiative in the confrontation and focuses their attention on the issue of *responsibility* and the consequences of their divorce practices. Who is responsible for your wife's adultery? The issue of whether divorce *per se* is ever justified is one He deals with elsewhere in the Gospels.

Again, this stern, hard-facts teaching on a husband's responsibility for his wife's adulterous remarriage would have made every husband in the land sit up and take notice. And it would not have endeared Jesus to many husbands, but many wives would have rejoiced when they heard that He had said such things about their hard-hearted husbands. They would have been satisfied (and maybe rejoiced) to know that they are not responsible for their remarriage and subsequent adulterous union with a second husband. Their Master has declared that the responsibility lies at the door of their husbands. On the other hand, a reunion and reconciliation with their first husband is an impossibility unless they disobey God and reunite against His express command. They may present a compelling theological argument for reuniting but that does not change God's attitude. Under the Old Covenant, reconciled partners were an abomination in God's estimation, but not so under the New Covenant. God's judgment of the adulterer under the Old Covenant was, "Go and be no more" (life removed from this earth). Under the New Covenant, God's judgment is, "Go and sin no more" (life reprieved). Under the Old Covenant, the death penalty was brought forward to the day of the deed, leaving no room for repentance or mercy. Under the New

Covenant, the death penalty is put off until the Day of Judgment, leaving much room for repentance and mercy. The woman taken in adultery was given an opportunity to ‘sin no more’, which was denied her counterpart under the Old Covenant. Truly a new Kingdom of God had arrived on the earth.

So revolutionary was Jesus’ new teaching, and so upsetting for thousands of husbands up and down the land, that it was probably quickly dismissed as the opinion of just one man who tried to oust Moses as the Teacher of Israel *par excellence*. It was one man against a host of experts: Jesus versus the rabbis (the scholars of His age).

The author goes on, “These rabbis [Hillelites] decided to ask Jesus what he thought: Mt. 19:3: Is it lawful to divorce one’s wife for ‘Any Cause’? This verse is normally translated “Is it lawful to divorce one’s wife for any cause” or “. . . for any reason” (p.47).

RESPONSE (§5.14) The normal translation the author presents is not strictly correct because the Greek has “for every cause”. Nevertheless, can the Greek PASAN AITIAN be translated by ‘Any Cause’? If the Greek had read TINA AITIAN (τινα αἰτίαν [cf. 3 Mac 1:13]), then this would be the way to express some unspecified cause, and might plausibly, in certain contexts, be translated by ‘any’ or ‘some’. But here the Greek has PASAN, which means ‘all’, which is not indefinite. The term AITIAN (αἰτίαν) occurs 20 times in the LXX, of which 17 are in the Apocryphal books. The meaning ‘reason, cause’ or ‘case, situation’ suits most contexts. It also occurs 20 times in the New Testament with the same meanings.

It would appear that the author has been misled by the translation of the ESV, which has retained the faulty AV translation, which had been transmitted unchanged for 400 years in virtually every modern version. If the AV had translated the better Greek manuscripts by: “Is it lawful to divorce one’s wife for every cause?” the author would not have been able to use it in his argument, because ‘any’ is not the same as ‘every’. The author claims that “the Hillelites called their new form of divorce the ‘Any Cause’ divorce – a legal term which was used by other Jews such as Philo and Josephus as well as by the Rabbis themselves.” A footnote to this reads:

Philo used it in *Special Laws* 3.30: “Another commandment is that if a woman after parting from her husband for ‘Any Cause’ . . .”. Josephus used it in *Antiquities of the Jews* 4.253: “He who desires to be divorced from the wife who is living with him for ‘Any Cause’ (and with mortals many such may arise), must certify in writing . . . “. In the Rabbinic commentary *Sifré Deuteronomy* 269 the Hillelites say that a man can divorce a woman even if she spoiled his dinner, since it says ‘[Any] Cause’, and then they go on to defend their conclusion that Deuteronomy 24.1 speaks both about “she who is divorced for ‘A Cause’ and she who is divorced for ‘Sexual Immorality’” (p.201).

According to Hillel’s new DIY divorce, a husband could divorce his wife for “a thing”—“even if she spoiled his dish” (Mishnah *Gittin* 9:10). Rabbi Aqiva added that he may divorce his wife even if he found someone more beautiful than her (i.e., for any reason whatsoever).⁴⁶

RESPONSE (§5.15). The author has manoeuvred Hillel to say what he did not say. Hillel talked about ‘a *dāvār*’ or ‘a thing, matter’. The author has subtly altered this to ‘any thing’ and then elevated it into a legal term, ‘Any Cause’. So

⁴⁶ Steve Mason (ed.), *Flavius Josephus: Translation and Commentary* (Leiden: Brill, 2000), 3.427 n. 810. However, Aqiva did use another clause in Dt 24:1 to justify his new cause, namely, “If she does not find favour in his eyes.” If her visual appearance does not please him he can divorce her. So the aging process is against her. Her wrinkles become a cause for divorcing her.

in two steps he has manoeuvred Hillel into a position where the ordinary word *dāvār* becomes a highly technical, legal term to describe a divorce which was obtained on the grounds of Hillel's minority exegesis of the meaning of *dāvār* in Deuteronomy 24:1. Hillel never talked about his new divorce bill as an 'Any Cause' divorce, It never had a name. He only interpreted *dāvār* as 'a thing' which was distinct from *erwath*, and which could be used alongside *erwath* thus giving two grounds for divorce where before rabbis had read the phrase "*erwath dāvār*" as one ground.

Having manoeuvred Hillel into a position where a special name was given to his new kind of divorce, namely, 'Any Cause', the next stage was to find evidence where contemporary or near contemporary Jewish writers referred to this new style of divorce under its new, technical name. The writer discovered that Philo and Josephus used the very term 'Any Cause' which Hillel is alleged to have created to describe his new kind of divorce.

It turns out, however, that Philo did not use *πάσαν αἰτίαν*. He used the term, *καθ' ἣν*. The Loeb translation reads: "Another commandment is that if a woman after parting from her husband for any cause whatever [*καθ' ἣν ἂν τύχη* lit. 'in accordance with which, by chance'] marries another . . . she must not return to her first husband but ally herself with any other [*ἀλλὰ πᾶσι τοῖς ἄλλοις*] rather than to him, because she has broken with the rules that bound her in the past and cast them into oblivion when she chose new love-ties in preference to the old." This is an imprecise translation. It should read: "Another commandment is that if a woman after parting from her husband, by which⁴⁷, by chance she marries another . . ." Here Philo is following the orthodox understanding of the 'hate' reason in Deuteronomy 24:3, which covered any reason one cared to give to obtain a divorce.

By claiming that Philo used the technical term 'Any Cause', the author has misled his readers and imposed Hillel's technical term on Philo, and made him a mouthpiece and a key witness to the existence of Rabbi Hillel's distinctive, new DIY divorce, alleged to have been first introduced by him some decades before Jesus was born. It would appear that the author was misled by the English translation of Philo and did not check the Greek.

If Philo does not support the author's 'Any Cause' translation, does Josephus mention Hillel's new, legal 'Any Cause' divorce? The author says, Yes. Josephus reads:

"He who desires to be divorced from the wife who is living with him for whatsoever cause (*καθ' ἄσθηποτοῦν αἰτίας*)—and with mortals many such (*πολλὰ . . . τοιαῦται*) [causes] may arise—must certify in writing that he will have no further intercourse with her; for thus will the woman obtain the right to consort with another [man], which thing ere then must not be permitted. But if she be maltreated by the other also or if upon his death her former husband wished to marry her, she shall not be allowed to return to him" (*Antiq.* 4.253).

Another translation reads:

"One who wishes for whatever reason—and many such arise among human beings—to be divorced from a woman who is living with him, let him confirm in writing that he will never cohabit with her, for thus she will obtain the right to live together with another; before that, it ought not to be allowed. But if she should [then] be mistreated by that one or if, upon his death the former husband should wish to remarry her, it is not permitted to her to go back."⁴⁸

⁴⁷ Or, 'according to which'. Philo is following Deut 24:1-3 which states the bare fact that the wife was divorced, remarried, and divorced again. Nothing is said about an 'Any Cause' reason why she was divorced, because Philo's focus is on the impossibility of a reconciliation.

⁴⁸ Steve Mason (ed.), *Flavius Josephus: Translation and Commentary* (Leiden: Brill, 2000), 3.427-28.

Note that in place of 'hate' Josephus refers to the fruit of hate, namely, *κακωθείη* or 'harsh treatment, to act maliciously, prone to put the worst construction on anything' (Liddell & Scott, 9th ed.). It would appear that the author was misled by the English translation of Josephus and did not check the Greek. The Loeb edition reads: "for whatsoever cause".

Josephus accepted that a wife could be divorced the first time round for 'many reasons' and he mentions 'maltreatment' as an example of a subsequent cause, which is not specifically mentioned in Deuteronomy 24:1-3, so he must have included it under the 'hate' provision. Hate, like love, can manifest itself in many ways and forms. He did not get the idea of 'maltreatment' (*κακωθείη*) from Exodus 21:10-11, because his focus is on the law of divorce in Deuteronomy 24:1-4. Josephus does not identify 'adultery' as the sin of 'erwath *dāvār*, because he accepted that death was the only punishment for that particular sin in Book 3.273-275, where he writes,

"He [Moses] completely forbade adultery . . . having intercourse with mothers as the greatest evil. . . . having intercourse with the spouse of one's father, [etc.] . . . For those who have committed these outrages he designated the penalty of death." (Cf. Lev 20:10-16.⁴⁹)

So Josephus disagreed with both Shammai and Hillel on this point, that is, if they both interpreted "'erwath" as adultery, and not as "an indecent thing" such as exposing one's nakedness.

Josephus (37–c.110 AD) tells us that at Vespasian's command he married an Israelite woman who had been taken capture at Caesarea but that she left him (there is no mention of a divorce). He then married a woman of Alexandria whom he divorced, "being displeased at her behaviour" (*Life* 414-415). His own record is:

"In fact, when he [Vespasian] so directed, I even took a certain virgin for myself,⁵⁰ a native from among the prisoners who were seized at Caesarea. This one did not stay with me for a long time, but when I was freed and traveled with Vespasian to Alexandria, she was released.⁵¹ In Alexandria, however, I took another woman for myself. [415] . . . At this time also I sent away (*ἀπεπεμψάμην*) the woman, being displeased (*μὴ ἀρεσκόμενος*) with her habits⁵² [426]. . . . After these things I took for myself a woman, who, though she had settled in Crete, was by ancestry a Judean, of parents who were the most noble, From this wife two children were born to me [427]."

We can assess Josephus' position as follows:

First, Josephus (like Philo) does not use Hillel's new, technical term, *πάσαν αἰτίαν*, 'Any Cause' (which, of course, Hillel never used himself). This is the author's interpretation of his words, because the technical term 'Any Cause' is a conjecture by the author. Second, the word Josephus does use, namely, *οἴασθηποτοῦν*, occurs 66 times in classical Greek writings meaning 'whatsoever'. Third, the fuller phrase, *οἴασθηποτοῦν αἰτίας* ('whatsoever cause'), occurs fourteen times in classical writings. It is used by a wide range of ancient Greek authors including Galenus, Michael Attaliates, Philumenus, Flavius Claudius Julianus, Eusebius, and Gennadius Scholarius, and it is found in a number of

⁴⁹ There are 36 sins (Mishnah *Keritot* 1:1) where the means of death is not stated but the unforgiven are "cut off from among their people". The rabbis said it was "death at the hands of heaven" (Mishnah *Yebamot* 4:13 and *Megillah* 1:5 (source, Steve Mason, *Josephus Antiquities*, 3.314).

⁵⁰ This would have been in late July AD 67.

⁵¹ The *editio princeps* reads: *ἀπηλλάγη* 1st aor. pass. ind. 3 pers. fem. sg. of *ἀπαλλάσσω* 'she was released'. Some MSS read *ἀπηλλάγην* 1st aor. pass. ind. 1 pers. sg. 'I was released [of her]'. If a husband did not look after his captive wife she could go out free (Exod 21:10-11), and this appears to be what happened here. There was no need for a formal divorce. She just departed.

⁵² The word could mean 'behaviour'. Augustus divorced his wife Scribonia because he was 'disgusted with her crooked behaviour' (Suetonius, *Aug.* 62:2). Steve Mason, *Life of Josephus*, 9:170 n. 1757.

works, such as *Basilica*, *Hippiatrica*, and *Prochiron*, in all of which it has no technical or legal significance.

(1) Five times it is found in the form: ἐξ οἰασθηποτοῦν αἰτίας ('out of whatsoever cause')(Galenus and Michael Attaliates, and the works *Basilica*, *Hippiatrica*, and *Prochiron*).

(2) Seven times as: δι' οἰασθηποτοῦν αἰτίας ('on account of [or, through] whatsoever cause')(Philumenus, Julianus [4x], Gennadius Scholarius, and *Hippiatrica*).

(3) Twice as: καθ' οἰασθηποτοῦν αἰτίας ('for whatsoever cause')(Josephus and Eusebius).

It would appear from the use of οἰασθηποτοῦν αἰτίας that Josephus⁵³ used the expression καθ' ἄσθηποτοῦν αἰτίας without any suggestion that it was a technical or legal term for a special type of divorce bill. We have only the author's interpretation that Josephus was referring to Hillel's highly technical 'Any Cause' divorce certificate when he used these words.

Fourth, there is a good grammatical reason why Josephus was not using the words οἰασθηποτοῦν αἰτίας as legal jargon for a special kind of divorce. The text of Josephus reads: ἄσθηποτοῦν, which is made up of ἄς (acc. fem. pl., 'which ones') + δῆποτε + οῦν = 'ones whatsoever'. This is followed by αἰτίας, which in form can be either gen. sg. fem (Mk 15:26) or acc. pl. fem (Acts 25:27). Here it must be the accusative plural form 'causes'. So Josephus is not referring to a single cause, but a plurality of causes, because he then adds: "and with mortals many such (πολλὰ . . . τοιαῦται) [causes] may arise."

This would suggest that Josephus was aware that under 'hate' (Moses' second grounds for divorce in Dt 24:3) virtually anything that would give rise to anger and hate could be included. 'Hate' must have been an umbrella term to cover any cause that a husband chose to nominate.

Eusebius also used the same phrase but not in a marriage context. He wrote: εἶτε καθ' ἑτέρας οἰασθηποτοῦν αἰτίας.⁵⁴

The author goes on, "They [the Shammites] summarised their opinion by saying that, on the basis of Deuteronomy 24:1" "A man should not divorce his wife except he has found "Sexual Immorality" in her" (p.46). The footnote (on p.201) reads: "This is found in *Sifré Deuteronomy* 269; Jerusalem Talmud *Sotah* 1.2, 16b and Mishnah *Gittin* 9.10. The Greek of Matthew 19:9 ('whoever divorces his wife except for sexual immorality') is almost exactly the same, because both Jesus and Shammai use a vague general word for 'sexual immorality' rather than a specific word meaning 'adultery'.

RESPONSE (§5.16) The author does not tell us what was the word used in *Sifré Deuteronomy* 269, which he has translated as 'Sexual Immorality'. According to Neusner's translation (see below) it should be translated as "indecency", which suggests *erwath*. The author wrongly uses the same translation to translate the very specific term *porneia*, 'fornication', in Matthew 19:9.

Where before we saw how the author imposed a standard 'Any Cause' translation on Philo and Josephus to make it appear that they supported Hillel's new, 'Any Cause' divorce, here he imposes 'Sexual Immorality' for both *erwath*

⁵³ The most common form of the word is οἰασθηποτοῦν, which is made up of οἴας (acc. fem. pl., 'what, of what kind') + δῆποτε + οῦν = 'of whatsoever kinds'. The only other form found of this word is ὀποιασθηποτοῦν, which is made up of ὀποιας (adj. fem. gen. sg, 'of what sort or manner') + δῆποτε + οῦν = 'of what sort whatsoever'. It is found three times (Nicephorus Gregoras, the *Etymologicum Magnum*, and reconstructed in *Scholia in Homerum*).

⁵⁴ *Prep. evang.* bk 7, ch. 8, sect. 24.

dāvār and *porneia*, thus giving the misleading impression that they are synonymous terms, which he has yet to prove.

Even more confusing is the statement, “The Greek of Matthew 19:9 . . . is almost exactly the same, because both Jesus and Shammai use the typically Jewish expression ‘not if’ to mean ‘except’, and both use a vague general word for ‘sexual immorality’ rather than a specific word meaning ‘adultery’.” (p. 201) On two counts this statement is inaccurate. First, Jesus did not use the expression ‘not if’; He used ‘not’ on its own. Secondly, both do not “use a vague general word for ‘sexual immorality’.” Shammai follows the Hebrew exactly and used *’erwath dābār*, which is never used of ‘adultery’ or ‘fornication’. It means ‘nakedness’ (‘indecenty’). Jesus, on the other hand, used *porneia* ‘fornication’, which is never used of ‘nakedness’, so each term has its own semantic domain. They are not synonymous, or synonyms, nor are they ‘vague general’ words for ‘sexual immorality’ as the author claims.

Indecency or nudity was always a shameful condition in Hebrew culture due to God’s insistence that it be covered. He determined their culture. Nudity never became an art form as it did in Greece. Yahweh provided Adam and Eve with more permanent material to hide their nakedness.

One can be confident that the wife in Deuteronomy 24:1-4, who was divorced for an ‘obscene act,’ was guilty of some kind of sexual indiscretion given that the term *’erwāh* in every instance where it is used in a literal sense refers to the human sex organs, but in no instance does this sexual indiscretion refer to sexual intercourse, either as fornication or adultery for which the penalty was death, not divorce. We can conclude that *’erwāh* referred to the visible exposure of the sex organs, or nakedness, and that it is never used as a synonym for adultery or fornication, any more than it is in English.

From this study we are left in no doubt that when Moses drew up the divorce law that lies behind Deuteronomy 24:1-4 (for we do not have Moses’ actual law), he accepted that the punishment for adultery was death. That was non-negotiable. Moses’ divorce law was not intended to displace God’s law, as regards adultery or fornication. Moses’ law was intended to cover the situation where a wife did something not worthy of death, but which disgusted her husband, such as exposing her nakedness. There was no law against this indecent behaviour, and Yahweh ignored it. Unforgiving husbands were not prepared to forgive this behaviour and, being masters in their own houses, they wrote their own ‘bill of departure’ (divorce paper) and sent her away.

Despite this analysis of the term *’erwāh*, we find the author stating, “Jesus (or his translator) used it [*porneia*] because it was the best translation of the Hebrew word for general ‘sexual immorality’ (*’erwāh*) in the Rabbinic legal phrase “except ‘Sexual Immorality’” (p. 49).

RESPONSE (§5.17) This is very poor research. If the author had looked up *porneia* in the LXX he would have discovered that it never translates *’erwāh* once. *Porneia* occurs 49 times, the same root is used for the infinitive 42 times and other verb forms 18 times, and 42 times for ‘prostitute,’ and these always translate Hebrew זָנָה (*zānāh*), which is the normal word for ‘fornication’ in the OT. The first instance of its use is illustrative of its meaning. “And it came to pass about three months [after], that it was declared to Judah, saying, ‘Tamar your daughter-in-law has committed fornication (ἐκπεπόρευκεν); and also, lo, she has conceived by fornication (ἐκ πορνείας).’ And Judah said, ‘Bring her out, and she is burned’ (Gen 38:24).

Jacob Neusner has translated *Sifré Deuteronomy* 269 as follows, using A, B, and C to identify sections he comments on (the reviewer's comments are in curly brackets):

A. The House of Shammai say, "A man should not divorce his wife unless he has found in her some indecency, as it is said, *Because he has found some matter of indecency in her.*"

And the House of Hillel say, "Even if she spoiled his soup, as it is said, *Because he has found some matter of indecency in her.*"

B. The House of Hillel said to the House of Shammai, "If *matter* is said, why is *indecency* said? And if *indecency* is said, why is *matter* said? For if *matter* were said and *indecency* were not said, I might say, 'She who goes forth on account of a *matter* [of any kind] will be permitted to marry, and she who goes forth on account of *indecency* [in particular {Better: because it was not said in Scripture⁵⁵}] will not be permitted to remarry.'

And do not be surprised, for if she was prohibited from that which had been permitted to her [her husband], should she not be prohibited from that which had already been prohibited to her [any other man]? Scriptures [sic.] says *indecency*, and she goes forth from his house, and she goes and marries another man.

And if *indecency* were said {in Scripture} and *matter* were not said {in Scripture}, I might say, 'On account of *indecency* she will go forth {= divorced}, on account of [any other] *matter*, she will not go forth {because it is not said in Scripture}.' Scripture says, *Matter*, and she goes forth from his house."

C. R. Aqiba says, "Even if he found another prettier than she :

The same passage is found in Mishnah *Gittin* 9:10:

The House of Shammai say, "A man should not divorce his wife unless he has found some indecency, as it is said, *Because he has found some matter of indecency in her.*"

The House of Hillel say, "Even if she spoiled his soup, as it says, *Because he has found some matter of indecency in her.*"

R. Aqiba says, "Even if he found another prettier than she, as it says, *If she find no favor in his eyes* (Deut 24:1)."

Hillel worked on the principle that if Scripture is silent about something then it is not prohibited. So Hillel's point is that if the "indecency" (*erwath*) grounds for divorce had not been mentioned by Moses, then it could not be used as a grounds for divorce. Simple logic. And, similarly, if "matter" (*dābār*) had not been mentioned, then it could not have been used as a grounds for divorce. But because both words are used, then both become separate grounds for divorce—"indecency" and "a matter". Shammai appears to have rightly understood that *erwath dābār* was a construct noun—"an indecent matter"—and therefore constituted a single cause of divorce.

Now, since Scripture also mentioned 'hate' in Deuteronomy 24:3, Hillel would have accepted that any matter of hate could be used as a grounds for divorce. This is how his logic works. Now the 'hate' envisaged by Moses is hatred of a wife. How it came about and whether it was justified is irrelevant as regards Hillel's method of exegesis was concerned. If "indecency", "a matter", and "hatred" are all grounds for divorce, then no wife was safe. Her husband could get her on any one of these grounds. She had to walk a very tight line not

⁵⁵ I have placed in curly brackets my alternative to Neusner's suggestion.

to annoy him in the slightest lest it becomes “a matter” for divorce, or a matter of “hate”. It mattered little whether she was kicked out for “hate” or for “a matter”, either term would cover any reason the husband chose to nominate to get rid of her. She must have lived a very precarious existence once her marriage settled down (as it inevitably does) into a hum-drum daily routine. When Eve was cursed in the Garden of Eden, God mentioned that as a result of her sin her husband would “rule over” her, and Hillel’s doctrine epitomises the depths of this despotic rule over women under the guise of “seeing” it in Scripture.

R. Aqiba says, “Even if he found another prettier than she, as it says, *If she find no favor in his eyes* (Deut 24:1).” Here, the principle of ignoring grammar and isolating words and phrases from their grammatical context, which Hillel employed, is applied by extension to the preamble, by Aqiba, “If she finds no favour in his eyes . . .” He abruptly stopped here and reflected on these isolated words, and came up with yet another new grounds for divorcing a wife, namely, her wrinkles, her looks, her figure. “In his eyes” is taken literally. Visually she has fallen below what he once married—a young virgin. So to the three that Hillel had isolated from the text of Deuteronomy 24:1-3, Aqiba found a fourth—her aging process. So even if a wife never looked at another man (a look of adultery), or never gave her husband any cause to hate her, she could still be dumped for “a matter” (Hillel’s discovery), or for her figure (Aqiba’s discovery). This was not so much a “no-fault” divorce system as a “her-fault” divorce system. The wife was entirely to blame for every divorce. The fault always lay in her, in her “indecent” or hateful manners, or character, or her cooking, or her unkempt looks, or simply the aging process—she was no longer attractive or interesting; she was a bore. Whatever it was, the fault was always with the wife, never with the husband. Neither Moses, Hillel, or Aqiba so much as hinted that a husband could have contributed to the break-up of his marriage. All three sources put the blame squarely on the wife.⁵⁶ In this respect Moses is no different from Hillel and Aqiba. Hillel’s ‘Any Cause’ should really be renamed as ‘It’s-All-Her-Fault’.

The author believes that Hillel’s ‘Any Cause’ (‘It’s-All-Her-Fault’) divorce certificate became very popular among the men. I bet it did! Here was a ‘teacher come from God’ to release them from their boring and aging wives, speaking in the name of Moses, and opening up new ways of understanding God’s Word. We can hear them say, “How marvellous! And what wonderful gems Hillel and Aqiba have found in Deuteronomy 24:1-3, which we never knew were there for *our* benefit!” It is not reported what the wives thought of the new ‘discoveries’ in the Torah, which considerably loosened the covenant vows they made to one another, and lessened their chances of remaining with the same husband for the rest of their lives. The screw of “he shall rule over you” tightened two more turns, once by Hillel, and again by Aqiba, on their already sore thumbs. Can we ever enter into the lives of these poor wives and understand the impact that these biblical ‘discoveries’ had on them when they were first promulgated by Hillel and then later by Aqiba? The pain, the anguish, the uncertainty, that Moses, then Hillel, then Aqiba, heaped upon them, was suddenly thrown away when Jesus burst on the scene with His new teaching that whoever divorced his wife, *for whatever cause*, and married another was committing adultery. All that these down-trodden wives had looked for in their marriages was being restored by the

⁵⁶ When we consider that Jesus said that Moses gave husbands permission to divorce their wives, He distanced God from being the author behind what is recorded (in God’s own words) in Deuteronomy 24:1-3.

Messiah. Equality, dignity, and permanency, were all on offer for those who threw in their lot with Him. The women were for Him; the men were against Him because He posed a threat to their freedom to divorce their wives for any reason whatsoever.

The author notes in the same footnote (p. 201 n. 11) that, “The version in Mishnah *Gittin* 9:10 is different only by one word because it says “except he has found ‘a matter of sexual immorality’” which is exactly like . . . Matthew 5:32: “Every one who divorces his wife, except for ‘a matter of sexual immorality’”.

RESPONSE (§5.18) Two observations. First, the author has put ‘a matter of sexual immorality’ in single quotes in the belief that this is a legal phrase in both *Gittin* 9:10 and Matthew 5:32. In this way he can give the impression that both sources are referring to the same legal phrase. He has not proved that it is a legal term. Second, he imposes ‘sexual immorality’ as a uniform translation to replace ‘indecent’ in *Gittin* 9:10 and replace ‘fornication’ in Matthew 5:32. In this way he can give the impression that both sources are referring to the same cause, which is not the case. Note that we have no reason to believe that the Mishnah read ‘a matter of indecent’ as a legal term, any more than it is in the Hebrew.

What he has failed to note is the context. In *Gittin* 9:10 and in *Sifré Deuteronomy* 269 the debate between Shammai and Hillel is how to interpret ‘*erwath dābār*’ in Deuteronomy 24:1. Shammai wanted to limit its meaning to ‘indecent’ whereas Hillel wanted to accept ‘indecent’ but add ‘a thing’. So when Shammai is reported as saying, “A man should not divorce his wife except he has found some indecent in her,” this was worded so as to exclude Hillel’s addition, as it related only to Deuteronomy 24:1. Shammai, it would appear, permitted divorce for other reasons (presumably hate), but here he is referring only to what lies behind the specific term ‘*erwath dābār*’. So the use of the term ‘except’ is in the context of limiting the meaning of ‘*erwath dābār*’ to ‘a matter of indecent’. He is not saying that Moses permitted divorce for one reason, and only one reason, namely, ‘*erwath dābār*’. Some have supposed that Jesus and Shammai were agreed in not permitting divorce except for fornication. This is false. Shammai and Hillel were united in permitting divorce for ‘any reason’, it is just that Shammai did not justify it by using the term ‘*erwath dābār*’, whereas Hillel did. In practice, Shammai and Hillel were no different, because divorce could be had for ‘hate’, which just about covered anything a husband wanted to nominate as a cause. What distinguished Jesus from Shammai and Hillel, was His absolute ban on any remarriages under any circumstances while both partners were still alive.

This example shows up the danger of a blinkered approach to specific words and phrases taken out of their original contexts and pulled together to make them agree, often by translating them in the same way. It also illustrates the danger of making judgments on superficial similarities of expressions.

The author believes that the Pharisees’ question was intended to elicit a response from Jesus’ to Hillel’s new, DIY-style divorce, which the author has called ‘Any Cause’, though Hillel never called it that. It is an assumption by the author that the phrase ‘for any cause’ (so most English translations have it) must be a direct reference to Hillel’s new style divorce, given that the question was: “Is it lawful to divorce one’s wife for any cause?” He notes:

But the question, ‘is it lawful to divorce?’ is an illogical one because to the Jews ‘divorce’ means ‘the procedure which is defined in the law of Moses’ – and the law of Moses cannot be ‘unlawful’!

However, if you translate the question, 'Is it lawful to divorce one's wife for 'Any Cause'?' it makes perfect sense. The Rabbis wanted to know what Jesus thought about the new 'Any Cause' type of divorce and how he interpreted Deuteronomy 24.1.

"Actually in the account of this episode in Mark, the Rabbis *do* appear to ask the illogical version of the question, 'Is it lawful for a man to divorce his wife?' (Mk. 10.2). There is a simple explanation for this: anyone reading Mark in the 1st century would have mentally added, '. . . for "Any Cause"' to complete the question because everyone at the time was talking about it. (p. 48)

RESPONSE (§5.19) The author assumes (1) that the name 'Any Cause' was in existence and that it was referred to by this distinctive title. We have seen that there is no evidence that such a name ever existed. The name appears to be the author's own creation (but he does not say so), which he has then projected back into the Mishnah and into Matthew 19:9.

(2) He assumes that everyone was talking about Hillel's new 'discovery' of another ground for divorce that virtually allowed any husband to divorce his wife for any reason. There is no evidence that Hillel's new teaching went beyond his own circle of followers. There is no mention of the new, DIY divorce in Philo or Josephus. But it is crucial to his theory that everyone was familiar with the name 'Any Cause' otherwise how would Mark's readers know to add ". . . for 'Any Cause'" to the 'illogical question'?

(3) The author does not explore other possibilities for the apparent illogical question. The most obvious one being that Mark and Luke present Jesus as an absolutist when it came to remarriage. They both leave the reader in no doubt that a follower of Jesus cannot divorce and therefore cannot remarry while both partners were still alive. To rule out all divorce for any cause put Jesus at odds with Moses, who did permit divorce. The implications of Jesus' new teaching of 'No divorce for any cause' was not lost on the Pharisees, hence they framed their question in such a way that His answer must reveal His rejection of Moses. Seen in this light the question ceases to be illogical but cunning. It was designed deliberately to tempt Jesus to overturn Moses' teaching on divorce and remarriage. The directness of the question put Jesus on the spot: "Is it lawful to divorce?" Mentally they were saying, "Moses permitted us to divorce. You are on record as banning all divorce. Are you greater than our teacher Moses?" Behind their question in Matthew 19:3, is their deliberation, "Surely He can't be against divorce for *every* cause? Surely, there must be *some* exceptions to His absolutist position." This would explain why the question was a 'test,' or 'trap'. In the Pharisees' eyes, to oppose Moses was to oppose God. But it was not a 'test,' or 'trap' if the Pharisees only came along to find out Jesus' opinion about Hillel's new style divorce.

The author proceeds, "When the Rabbis eventually got Jesus back to their question, he gave the same straightforward interpretation of Deuteronomy 24.1 which Shammai taught – that is, he said that the phrase "a cause of sexual immorality" meant "nothing except 'Sexual Immorality'" (pp.49, 131).

RESPONSE (§5.20) Unfortunately for the author, Shammai is reported to have said, "A man should not divorce his wife unless he has found some matter of indecency, . . .". He did not say, "nothing except 'Sexual Immorality'". This is the author's gloss. The author has changed Shammai's 'indecency' to 'sexual immorality' in order to bring it closer to Matthew's 'fornication'; the two concepts are not the same. And he has changed Shammai's "except" into

“nothing except”, in order to bring it closer to Matthew’s “except for fornication”. However, Matthew 19:9 does not say “except”, but “not”.

We noted above that Erasmus led the Reformation Churches astray with his addition of EI before MH, resulting in “except for fornication.” Here the author has assumed this to be what Jesus said and accordingly drew attention to what looked like an almost identical phrase in Shammai’s statement, “nothing except indecency”. We noted that the contexts are entirely different. Jesus uses His statement “not for fornication” in the context of His own new doctrine, whereas Shammai uses it in the context of defining the boundaries of what *‘erwath dābār* could and could not include, which he concluded was “nothing except indecency”. Jesus has nothing to say about *‘erwath dābār* or about Deuteronomy 24:1-4, except to imply that His new teaching supersedes anything Moses taught on the subject. A greater than Moses had arrived, to whom the entire nation was to listen and follow.

Note the other flaw in the author’s presentation. Where Jesus used ‘fornication’ (illegal sexual intercourse), Shammai used ‘indecency’ (nakedness). They are not talking about the same thing because their words are different. The reader should be alert to the author’s favourite method of imposing the same translation for different terms, thereby giving the impression that Jesus and Shammai are talking about the same thing. We noted the same method in the use of ‘Any Cause’ to translate Philo and Josephus, which he used to give the impression that the name ‘Any Cause’ was on the lips of everybody throughout the first century AD.

The author complains that “Most interpreters have not recognised that Jesus is quoting the Rabbinic legal phrases “divorce for ‘Any Cause’” and “nothing except ‘Sexual Immorality’”. As a result they think that Jesus was asked “Is it ever lawful to divorce?” and that he answered “No – except for sexual immorality”.

RESPONSE (§5.21) We have shown that Erasmus added EI (‘if’) before MH (‘not’) and missed the point that Jesus was making. The author has assumed throughout his work that Erasmus’s Greek text is the same as the Nestle-Aland 27th edition. It is not.

Jesus did not replace Hillel’s ‘Any Cause’ divorce system with His own ‘One Cause’ divorce system (as Erasmus makes Him out to teach). His was a ‘No Cause’ divorce system, because He transforms each of His disciples into sons and daughters of God, who walk in the light. They no longer walk after the flesh, but after the Spirit.

The author’s theory is strong on assertions but weak on proof, and no scholar worth the name will go along with a poorly researched work which cuts across Jesus’ teaching in such a diametrical fashion, luring His Church back into the slavery of the Law, where Christian wives would once again be at the mercy of men wielding old-fashioned male divorce laws written by men for men, chauvinist in origin and outlook, and fitting only for hard-hearted, unregenerate men. That whole era was done away with, and made obsolete, in Christ, and He gave each of His followers the gift of the Holy Spirit to live according to God’s will. Deuteronomy 24:1-4 has no longer any practical relevance for God’s people today, because Jesus turned the people of God away from the Mosaic Dispensation and back to God’s view of marriage that held sway at the beginning of creation—to Genesis 2:24. In that new, spiritual world, where no divorce is possible for the Christian couple, the Kingdom of God will manifest itself in love,

which the world cannot engineer or ape, where the love of God is truly seen and experienced.

A theory which dresses Jesus up in Moses' clothes and has Him legislating for divorce in a Revised Edition of the Torah for the New Covenant Age is a travesty of the spiritual world that Christians are called upon to enter and walk in. Because the Holy Spirit enters each disciple of Christ, and Christ abides in each Christian, living according to the old Law is a denial of the transformation that has taken place.

The Law is like the crutches that a lame man might use to get to Christ, but once Christ heals him, he throws away his crutches with great joy, glad to be free from them, and enjoy walking without the need for them. Just so with the coming of Christ's healing Spirit and being lifted up to live by faith and love. But this theory is like offering the healed man his crutches back again and inviting him to walk with their aid once again.

Without the Spirit of Christ living in the new born man, the injunction to 'Be perfect even as I am perfect' is not possible. But to live after the divorce laws that Moses gave is to make that goal impossible. To look to Moses, rather than to Christ, is to return to living under the curse of the Law.

The author asserts that had Jesus been against all causes for divorce he would be contradicting Paul who allowed divorce for abandonment (1 Cor 7:15)(p. 50).

RESPONSE (§5.22) Paul did not contradict Jesus' teaching on 'No Cause' divorce among Christians. Paul taught that in mixed marriages, where one partner converted to Jesus, but the other didn't, and the unconverted spouse was so upset that s/he deserted their Christian partner, Paul, under the guidance of the Spirit of Christ, counselled the Christian partner not to fret, but keep the door open for reconciliation, because even if their partner went off and remarried, this did not mean they could not be reconciled. If Deuteronomy 24:4 applied to Christian marriages under the New Covenant then they would not be allowed to come back together again. Jesus did not give His Church the power to impose the death penalty for adultery, or for any other sin, for that matter, not even for blasphemy. The only power the Church has is to discipline her members, and as a last resort to excommunicate the unrepentant.

The author believes that:

Jesus thought that people were being too quick to divorce so he reminded them that Moses only meant divorce to occur when there was 'hard-heartedness' – i.e. a stubborn refusal to repent and stop breaking marriage vows. . . . We should only consider divorce if they continually break their vows with hard-heartedness, i.e. if they stubbornly continue without repenting or trying to change. (p.53)

RESPONSE (§5.23) The author makes the claim, "So Jesus explained further: 'Moses allowed divorce for *hard-heartedness*.'" This is a false reporting of what Jesus said. He has omitted the word 'your' before 'hard-heartedness' which alters the meaning considerably. Jesus actually said, "Moses for your hard-heartedness permitted you to put away your wives, but from *the* beginning it was not so." What Jesus said was that *their* hard-heartedness was the cause of Moses giving them the law to divorce their wives in the first place. If they had not shown hard-heartedness toward their wives Moses would never have given them a divorce law, is the implication of Jesus' words.

By omitting to note that the hard-heartedness came from those who pressurised Moses to introduce a law granting divorce, the author has isolated 'hard-heartedness' from the context in which Jesus used it, and raised it to the level of another cause for divorce among Christian couples. He says, "Moses allowed divorce for *hard-heartedness*." And by a simple substitution of "Jesus" for "Moses", he arrived at his new doctrine, "Jesus allowed divorce for *hard-heartedness*." This is careless exegesis of the text. The more so, in that its ethical implications are contrary to what Jesus taught, and would lead those who followed his new teaching directly into an adulterous relationship if they remarried. Jesus denounced the Pharisees who obtained a divorce on grounds other than fornication. 'Hard-heartedness' is such another ground, therefore to use it as a grounds to obtain a divorce, and then remarry, is committing adultery, in Jesus' judgment. The author has clearly not thought through the implications of his simplistic reading of Jesus' teaching on divorce and remarriage. To quote the author's own words:

Jesus did not just say that 'Any Cause' divorces were invalid but emphasised their invalidity by saying that people with 'Any Cause' divorces were not really divorced at all. Therefore, if they remarried after this type of divorce, they were actually committing adultery because they were still married to their previous partner. (p.54)

Without realising it, the author's new grounds for divorce, namely, 'hard-heartedness' comes under Hillel's 'Any Cause' divorce.

SUMMARY OF MAJOR PROBLEMS WITH THIS NEW TEACHING

There are a number of serious problems, conjectures, and imaginative leaps, behind the pages of this work, resulting in a new doctrine. These will need to be addressed before a single church leader would even begin to countenance its conclusion as a serious understanding of the Jesus' teaching, let alone a proficient understanding of the rabbinic material itself.

First, there is no engagement with Jesus' own statements in which He refuses to allow divorce on any grounds in His new Kingdom of God. When Jesus was asked the question about permitting divorce in Matthew 19:3, He replied by asking them a question. And the question expresses His surprise that they have not read what His Father had said in Genesis 2:24. They ought to have read it, is his rebuke to them. Instead, they had focused on Deuteronomy 24:1-4. Following His rebuke for not concentrating on Genesis 2:24, He then quotes it. But it is His deduction from this text that really surprised them. The lesson Jesus drew from this proof text was that it was illegal for any man to divorce his wife. That they understood Jesus correctly comes out in their second question: "(If you are right) Why, therefore, did Moses command to give a bill of departure and to divorce her?" They evidently saw a clear contradiction between what Moses commanded and what Jesus commanded. Jesus had overridden Moses and sidelined his teaching as obsolete and irrelevant for His followers. Jesus then undercuts their own position by pointing out that the law on divorce did not come from His Father, but from Moses. And to press home His case, Jesus points out that the law did not so much come from Moses as from themselves. *They demanded it*. They pressed Moses to give it to them. They refused to forgive their wives. They hardened their hearts. Moses simply gave in to their demand. So the origin for the law of divorce sprang from the unregenerate heart of man, and not from God. It originates from sin.

The author claims to have read the passages on divorce through the eyes of contemporary Jews, but he has failed to read Jesus' teaching through the eyes of His contemporaries. They clearly recognised that Jesus had abolished divorce for any reason, and this astonished them so greatly that they were impelled to ask, "Why, therefore, did Moses permit . . . ?"

Second, the author makes a bold claim, which he cannot substantiate with any evidence, that the phrase 'any cause' in Matthew 19:9 is a 'highly specialised legal term', and refers to a particular kind of divorce created by Rabbi Hillel prior to the birth of Jesus. This is pure conjecture.

Third, the author overlooked the important word "all" in the Greek in Matthew 19:9. He has mistranslated it as "any", with the consequent error of identifying Matthew's "every cause" with Hillel's so-called 'Any Cause'. The author has created the fiction of a legal divorce procedure called the 'Any Cause' divorce. Nowhere in rabbinic literature is Hillel's difference of exegesis with Shammai over the interpretation of Deuteronomy 24:1, captured in a slogan or catch-word phrase. The author, himself, has created the fiction of a legal divorce called 'Any Cause'.

Fourth, throughout his work the author refers to 'Any Cause' as if it was known by every Jew living in Jesus' day. Indeed, the author claims that so well-known was the legal term that Mark felt he could omit it without confusing his readers. This conjecture and claim comes out of the imagination of the author. There is no evidence for such a claim.

Fifth, another claim without any evidence is that the Hillel interpretation of Deuteronomy 24:1 was universally accepted by all Jews everywhere, and that all divorces from the second-century onwards were based on Hillel's interpretation. We simply have no evidence for this. This, too, emanates from the imagination of the author.

Sixth, Hillel argued that the Hebrew term *dābār* in Deuteronomy 24:1 meant 'a thing', which is correct. The author, however, has subtly altered this to mean 'any thing', and from there he created the legal fiction of an 'Any Cause' style of divorce. If he had kept to what Hillel had said, he should have conjectured that Hillel created 'A Matter' divorce. So that if someone wanted to use some fault he found in his wife, he could call it a 'Matter', a *dābār*, and he could obtain his separation under this single word term. But the author was drawn to the translation of 'any cause' in the English translations, and assumed that it might refer to Hillel's 'Matter' divorce.

Seventh, the above instance of following English translations of the primary material, led the author to make two more similar errors. He noticed that Josephus was translated as: "for whatsoever cause (καθ' ἁσθηποτοῦν αἰτίας)." The similarly with Matthew 19:9 is obvious in the English, but not in the Greek. The author clearly did not consult the Greek. The same methodological error was repeated when he noticed that Philo was translated as: "for any cause whatever [καθ' ἧν]." (See §13.1)

Eighth, the similarity in the English translations, led the author to make a fundamental error. He made the following false steps. First, he took Hillel's 'matter' and added 'any' to it, to give 'any matter'. Why? because he wanted to connect it with 'every cause' in Matthew 19:9. He then converted his newly created 'any matter' into a legal phrase with initial capital letters. Why? because the question in Mark asked if it was lawful to divorce, which was a stupid question to ask, given that Moses authorised divorces. By altering 'every cause' in the parallel in Matthew 19:9 to 'Any Cause', he could then claim that he had found a connection between Hillel's legal term and the very popular 'Any Cause' divorce which Hillel introduced into Judean life. From this conjecture he then needed to explain why 'every cause' (which he misread as 'any cause') was omitted in Mark, so he needed 'evidence' that everyone was so familiar with the term that it could be left out. The 'evidence' he needed, he found in the English translations of Josephus and Philo.

It is clear from this catalogue of errors and from the fact that they are all connected through English translations, that the author is either slap-dash in his approach⁵⁷ or he is unable to work with the primary material itself. This work is totally based on English translations, and this has proved its downfall.

Ninth, the author has a low view of the integrity, inspiration, and infallibility of Scripture, when it suits his argument. This comes out clearly in Chapter 12 with his imaginative scenario of a series of 'barriers' through which Jesus' teaching had to pass to reach us. These were no barriers to the Church because Greek was the universal language. But the author needed 'barriers' in order to explain why his new discovery could have got lost. If one has to lessen the integrity of Scripture, and the integrity of the Apostles and the leaders who followed them, in order to facilitate the acceptance of a new doctrine, this is a weakness in itself. It has the appearance of being contrived for the purpose of raising its chances of being accepted.

Tenth, one marvels at the extent to which a writer will go to distort in order to gain a place for his view. The author makes the surprising assertion that: "In the context of this emphasis against sex, it was natural that the 2nd-century Church would assume that Jesus taught remarriage was equivalent to sexual immorality and would not be surprised when he [Jesus] appeared to identify remarriage with 'adultery'" (p. 145). He also states, "The stand which the 2nd-century church took against sexual immorality made their new emphasis against remarriage (a misinterpretation of Jesus' teaching) seem normal. Once this new interpretation had become church doctrine it was difficult for the church to come to terms with the fact that a misunderstanding had taken place" (p.154).

This illustrates compartmental thinking. No regard is taken of a full century of abiding by Jesus' teaching on 'no divorce, and no remarriage'. Instead, the author begins the second-century as if the Church had no past history, and no tradition, and no memory of what Jesus taught. The author conjures up a scenario in which the Church was faced with promiscuous sex all around and it reacted so strongly against this free sex that it assumed that Jesus taught that remarriage was equivalent to sexual immorality or adultery. Even if the Church took a stand against sexual immorality, how did it get from that position to condemning all remarriages as adulterous relationships, unless they were

⁵⁷ Note the errors in his translation of the Aramaic texts under §13.1

already regarded as adulterous unions? As early as the first Council of Jerusalem, the Church took its stand against sexual immorality (Acts 15:29, 'to abstain from fornication'), and this was before AD 70! The second-century was no different from the first-century in this regard.

Eleventh, there is the assumption throughout the book that the rabbis, particularly Shammai and Hillel, permitted divorce for adultery, and that in Jesus' day the death penalty was no longer applied.

First, Jesus said, 'And I say to you, that, whoever may put away his wife, except for adultery, and may marry another, commits adultery; and he who did marry her that has been put away, commits adultery.' (Here I have retained the translation of all major English translations.) If Jesus is making provision for divorce for adultery, then He is in direct conflict with the Law of God.

Second, even the Mishnah upheld the death penalty for adultery (Mish. Sanh. 7.3, 9; B. Sanh. 52b, 55b, 66b). The tractate Sota provided the interpretation of the Num 5 passage, stating that the bitter water test ceased when adultery became common (Mish. Sota 9.9). The spirit of adultery (Sota 4b) and lust were censured (Yoma 29a, Nid. 13b), which Jesus took from His own theology.

We simply have no evidence at all that the Jews up to the time of the codification of their laws in the Mishnah and the Talmuds ever permitted divorce for adultery. It is unlikely that Jesus was the first rabbi to change the Torah Law and substitute divorce for the death penalty for adultery. Indeed, the most natural translation of Matthew 19:9 shows that Jesus reinforced the Law that divorce could not be had for fornication. , 'And I say to you that who, say, may put away his wife—not [he may put away] for fornication—and may marry another, commits adultery.'

That Jesus did not demand the penalty of stoning the adulterer (cf. *NIDNTT* 2:582–84) can be explained on a number of levels. (1) He did not come to judge the world or individual adulterers. He was an ordinary citizen of the Jewish nation. He had no position of authority within the leadership of His nation. (2) Two witnesses were required to put anyone to death (Dt 17:6). These would need to be examined by judges, not by an ordinary citizen who was shunned by the religious establishment. (3) According to the Law (Dt 22:22), the man who committed adultery with the woman also had to be stoned. If she was caught in the 'every act' then the man should have been too. Why was he not brought before Jesus? (4) Jesus stood between the two Covenants, fulfilling the Old and introducing the New. He gave priority to the New, while fulfilling the Old in His lifestyle. He lived 'under the Law' to redeem those under the Law. (5) God would judge those outside the Church who committed adultery, while Christ would judge those inside the Church, who made up His Body (1 Cor 6), the new Israel of God. All capital offences in the Old were commuted to excommunication from His Body by being 'handed over to Satan,' resulting in a spiritual death penalty if repentance did not follow. In this higher and deeper sense Jesus affirmed the death penalty for adultery.

Twelfth, A surprising methodological defect is the complete absence of a detailed study of the divorce texts themselves.

Thirteenth, another surprising defect about this book is that the author is so intent on reading the text through the eyes of Jesus' contemporaries that he failed to notice that even if Matthew 19:3 was a direct reference to Hillel's

teaching on divorce, and that Matthew 5:32 was a direct reference to Shammai's teaching on divorce, the references are irrelevant to Jesus new teaching on divorce. Jesus dismissed in one sentence all Pharisaic teaching on the subject because they bypassed the teaching in Genesis 2:24 and settled for something less than His Father expected from all human beings. This teaching, He intimated, preceded Moses' teaching, therefore they should go back to the first thing God taught about marriage and focus on Genesis 2:24 and forget about Deuteronomy 24:1-4 completely as a sub-standard, debased and degrading level of existence, which was introduced by men for men. No wonder Jesus threw the lot out as vigorously as He threw out the money-changers in the Temple.

By abolishing divorce altogether, Jesus made it clear that a power outside man—the Holy Spirit—was needed to come in and lift man out of the sordid, hard-hearted world into which all men are born, and enable them to rise to a level of spirituality that could forgive seventy times seven. This power is what distinguishes Jesus' followers from all other religions of the world. And Jesus' teaching on marriage and divorce distinguishes His true followers from all other religions. No other religion can rise above the fleshly level of the Mosaic divorce law, for all, without exception, practice divorce with hard, unregenerate hearts. They all share in a theology of accommodation and compromise from the spiritual law written in Genesis 2:24. The religion of the Lord Jesus Christ stands head and shoulders above all other religions, because it alone makes no allowance for hard-hearted and unforgiving individuals. Many attempts have been made to bring Christ down to the level of Moses, and this book, sadly, is in this category.

END

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SUPPLEMENTARY NOTES

NOTE HOW EASY IT WAS TO OBTAIN A DIVORCE

It was sufficient in a Mosaic court of law to simply state "hate" as the reason. See Bezalel Porten and Ada Yardeni, *Textbook of Aramaic Documents from Ancient Egypt* (Jerusalem: Hebrew University, 1986-96), vol.2, p.33, on the Elephantine divorce document:

Tomorrow or (the) next day, should Eshor {Miptahiah's new husband} stand up in an assembly and say: "I hated my [wif]e Miptahiah," her *mohar* [will be] lost . . . and she shall go away wherever she desires, without suit or without process.

This is straight out of Deut 24:1-4, where 'hate' is the grounds for divorce, and it shows how easy it was to obtain a divorce. He notes that the wife could do the same to her husband.

Tomorrow o[r] (the) next day, should Miptahiah {Eshor's new wife} stand up in an assembly and say: "I hated Eshor my husband," silver of hatred is on her head. She shall place upon the balance-scale and weigh out to Eshor silver, 6[+1] (=7) shekels, 2 q(uarters), and all that she brought in in her hand she shall take out, from straw to string, and go away wherever she desires, without suit and without process.

Note that in both hypothetical cases the wife leaves the husband's home, which is how the law in Deuteronomy 24:1-3 was framed by men for the advantage of men. She did not get half the property. Because this Elephantine document was drawn up before a marriage took place, (it is a Wifehood Agreement), it can only deal with hypothetical grounds for divorce, and it is interesting that the global term used to cover every ground is the unqualified term "hate".

So as far back as the Exodus in 1446 BC, when Moses first used the unrestricted, unqualified, undefined term "hate" as a grounds for divorce, divorce in Israel was open season all the year round for hard-hearted husbands to divorce their wives for every and any cause that came under "hate". The Elephantine document is revealing in that it is a snapshot of what was happening probably in Moses' day. It shows that man's unregenerate nature was as strong under Moses as it was in the Elephantine colony, and as it was in Jesus' day.

"Every Cause" divorce originated with Moses, not with Hillel. Hillel was not saying anything new: Elephantine confirms this. And it was still going strong in the mid-second century after Christ, for something very similar to the Elephantine divorces was occurring in Palestine and was accepted as legally binding by R. Yose b. Halafta (yKet. 5.8):

Said R. Yose, "In the case of those who write in the marriage settlement, 'If he should hate,' 'If she should hate,' this is a stipulation concerning a monetary matter, and such a stipulation remains in effect [despite the circumstances of the break-up of the marriage]."

Hillel was correct to allow divorce for any imaginable cause. He was right to open the door, rather, to take the door off its hinges completely, and permit divorce for anything at all. This is the liberty that Moses gave all Israelite men (but not women) in Deuteronomy 24:1-3.

Hillel was right to accept the two grounds given by Moses for divorce, namely (A) for "something indecent", and (B) for "hate". Both grounds are not modified in any way, or restricted in any way, especially (B). "The sky is the limit," says Moses. "If you desperately want a divorce, then I'm giving you the widest possible scope to cover any grounds you wish to nominate, only, I ask you to hand your wives a Bill of Divorce so that they can have some kind of life after divorce." Moses bowed under the pressure of lawlessness. He became a pragmatist. He tried to regulate sin, not prevent it.

NOTE ON THE USE OF THE MARRIAGE METAPHOR BETWEEN YAHWEH AND ISRAEL

Those who argue that divorce *per se* is a legitimate action point to Yahweh's divorce of Israel.

There is a danger of using a simile to establish a biblical institution for divorce here. God can take up any simile or metaphor to describe His feelings or His relationship, and apply it to Himself and to Israel. He describes Himself as a shepherd, so why not a husband? But no marriage ever took place between God and Israel, so there was no permanent union established between the two. Rather, the reality was a conditional Covenant which was entered into between God and His people. There were no marriage vows. There were only Covenant vows to be broken. The relationship was conditional on them keeping the terms of that Covenant. A marriage is not conditional. They did not keep the terms of the Covenant, therefore, to use a metaphor they could understand, He 'divorced'

them. But the use of 'divorce' does not mean there was a 'marriage'.⁵⁸ One can use 'divorce' in the sentence, "I would not like to be divorced from my car," but it does not imply that I went through a marriage ceremony with my car! One can use 'divorce' as a striking metaphor. And when I scrap my car, I can talk of 'divorcing' it, meaning I am well and truly parted from it. A nun might say, "I am married to the Church." We know exactly what she means to convey when she uses that simile. But it would be stupid to infer that she went through a marriage ceremony.

In this sense Yahweh 'divorced' Israel, even though they were never married. The metaphor aptly conveys precisely what Yahweh wanted it to convey between Him and the Ten Tribes. Judah was still 'married' to Him. Again, the metaphor conveys the love-relationship that Yahweh wished for between Himself and His people. But it would be wrong to take the metaphor literally. Yahweh sometimes describes Himself as a thief, or an eagle, a lion, a rock, etc.

God forbade a man to marry two sisters, but in the metaphor Yahweh was married to two sisters of the same mother, Aholah (who represented Samaria, Ezek 23:4) and Aholibah (who represented Jerusalem). Yahweh explicitly ruled that it was illegal to marry two sisters. Yahweh implicitly ruled that it was illegal to divorce one's wife. Yet He can take up both illegal situations and use them to convey how He feels toward His Covenant people.

Being unfaithful to God (by worshipping other gods) is like being unfaithful in a marriage relationship. Note the use of the marriage metaphor to show up the heinousness of worshipping foreign gods in Malachi 2:10-16. The metaphor increases and deepens our understanding. However, we should not confuse the metaphor with the reality on the ground, which was a Covenant relationship, not a marriage relationship.

Divorce, *per se*, is a moral evil, but as a metaphor to describe Yahweh's breaking His Covenant relationship with His people it is a legitimate use of the term. It is improper to use the metaphor to establish divorce as a moral act. Divorce, or putting asunder a lawful marriage, is always a sinful action because it negates God's will for every marriage. God can break His Covenant relationship with Israel on the strength of its conditionality which He spelt out clearly to them. He is not breaking any 'marriage' vow which He gave to them promising to stay in a permanent 'one flesh' relationship with Israel, because such a relationship never existed on the ground.

The Covenant had been broken by Israel, and God could then draw upon their own evil practice of divorcing their wives, to say, 'This is how I am now going to break my Covenant relationship with you.' It is a perfectly valid use of something that they could immediately appreciate, without validating the practice as such. Thieves existed, and God can use the metaphor of a thief to convey *one aspect* of a thief about a proposed action He planned to take, but because He used the thief-metaphor does not mean He approves of thieves, or that He is a thief, any more than He approves of Moses' introduction of the institution of divorce for hard-hearted husbands. God hates divorce as much as He hates theft. Both actions are inherently immoral. But God, being God, can use any metaphor He likes to convey His meaning in the clearest manner possible. God used the witch of Endor to speak to Saul. But God commanded Saul to exterminate all witches. He is sovereign in all His ways. He uses what He condemned to extermination. But we are not to conclude from this incident that because God used a witch to mediate His will, that therefore witches should be

⁵⁸ Jesus was a 'ransom' for many. By taking the metaphor literally some theologians speculated that Satan was given the ransom!

incorporated into the Church as another office, to stand alongside women deaconesses.

It is unlikely that either Ezekiel or Jeremiah went beyond the language of metaphor, because only in a parable or simile can God and Israel be viewed as 'married'. In reality, no marriage relationship existed. Similarly, in reality no 'divorce' existed except in a parable or simile. It was not beyond God to use the sub-human, degenerate state that marriage had descended into, in the Exilic period, and to latch on to that debased level and use it as a metaphor, to bring it home to them that 'divorce' (on their understanding of that word) is on the cards for them unless they repent immediately. No one can out-do God to find the *best* means of communicating His mind, and the 'divorce' metaphor was very appropriate under the circumstances.

Hebrew can be very bold and daring in its use of metaphors and anthropomorphisms to describe Yahweh's character and His various relationships, and I think some have allowed themselves to transform an analogy into a reality. We need to stand back and see how the analogy works in terms of conveying God's feelings. He is a master communicator, and will use the most appropriate words, analogies, metaphors and anthropomorphisms, in the most effective way, to ensure that He gets His message across clearly.

Yahweh's use of the metaphor of marriage and divorce turns out to be a good choice, because His Church, like an unfaithful wife, had prostituted herself (= idolatry) with Assyria and Babylon. He has determined to reject the Ten Tribes, and continue with the Two Tribes, so what better analogy to draw on than the divorce one. After all it was endemic in their culture, so if He used it, it would impact immediately on them, what He was about to do in "rejecting" them. He was "rejecting" His "wife"—Aholah (the Ten Tribes). They knew what was involved in such a rejection if it was allied to the concept of divorce, as they understood it, which meant that once they were divorced Yahweh could not take them back again. He could not take them back again, because He, Himself, had added the crucial caveat in Deuteronomy 24:4, that if they used Moses' divorce law, then they must accept the consequence that went with that decision, namely, there was no possibility of reconciliation. How appropriate in the case of 'divorcing' the Ten Tribes. God did not need to put the caveat in at Deuteronomy 24:4, but it is His own caveat that makes His use of divorce incredibly appropriate to use.

We should throw out the idea that Yahweh married two sisters as an historical reality, and look carefully at the appropriateness of using something that God hated, namely divorce, as a metaphor of the coming rejection of the majority of His people because they did not keep the terms of His Covenant with them. The Covenant vows and the Covenant Ceremony did happen in history. That is the real event. We should keep our eye on that reality, because it is that (not a fictitious marriage) that is about to be terminated. Then we will see that 'marriage' and 'divorce' are apt metaphors to use to illustrate the coming annulment and final rejection of both 'spouses', and begin again with a small elect remnant.

The New Testament Church is likened to a Betrothed Bride and the future is likened to the Marriage of the Bride. Again, the metaphor is so appropriate, because it conveys a lot of beautiful images and conjures up a very pleasant situation, but we cannot press it to expect a huge wedding cake and the best food and drink, followed by exciting entertainment into the night! But I fear this is what some have done with the metaphor of Israel as one of Yahweh's wives. The danger of pressing the marriage analogy is that one ends up saying that Aholah only became a prostitute in the eighth-century, whereas Yahweh says elsewhere that she was unfaithful from the moment she left Egypt. The analogy is only a

means to get across the idea that the coming rejection is as final as divorce, a concept which they were very familiar with.

I suspect that the approach of many scholars to the subject of divorce has been skewed by their failure to realise that divorce was only used in a pictorial sense. It was God's means of communicating the idea of breaching His relationship for ever with some of His people. Also their belief that God instituted divorce in Israel coloured their interpretation of Deuteronomy 24:1-3. These two factors have resulted in a very different understanding of God's attitude toward marriage and divorce to that held by the Jewish Apostles, the early Jewish Church, and virtually the whole of Church history up to the Reformation period, as conveyed in the Gospels.

NOTE ON THE ORIGIN OF THE LAW ON DIVORCE

The second point is that divorce, as an institution, was never instituted by God. Jesus puts the contrast between what Moses commanded to satisfy hard-hearted husbands, and what His Father commanded "from the beginning of creation."

For the Christian, the Mosaic institution of divorce has been abolished along with everything else in the Law as compulsory. Jesus noted that one cannot put new wine into old skins, and who would want to put old wine in with new wine? The Mosaic Law cannot be carried over into the Church. The moral law of God however, is good and profitable when used aright.

Many regard the Law of Moses on divorce as coming from God. This is clearly one major point on which exegetes disagree. If one makes God the author of the law sanctioning divorce in Deuteronomy 24:1-4, and Moses as His mere messenger, then this needs to be reconciled with Jesus' abrogation of His Father's law, which was shaped by the need to appease hard-hearted husbands.

It is incorrect to say that God 'allowed divorce' if by this is meant that Deuteronomy 24:1-3 presents God as creating the law of divorce in verses 1-3. Rather, God mentions what the current practice was (and probably had been during the 430 years in Egypt) in vv. 1-3, and then imposes a caveat on it. He only mentions their own innovation in order to add a caveat to it in verse 4. *Verse 4 is the point of relating vv.1-3.* By mentioning what Moses had instituted, God was not endorsing it, or giving it sanction, or legitimising it.

If one examines the structure of Deuteronomy 24:1-4 there is a parallel with the thief in 24:7. In the case of divorce, verses 1-3 *describes* how Moses' law operated, in much the same way that Yahweh describes what a thief does in verse 7a, and then comes the prescriptive judgment in v.4 against any husband who would obtain a Mosaic divorce, and then comes the prescriptive judgment in verse 7b against the thief. So the logical structure is simple. The first part is descriptive, and the second part is prescriptive.

Now there is a world of difference in *describing* what a thief might do and using that description to legitimise theft. Yahweh is describing what the thief does, not prescribing what the thief should do. So likewise with the evil of divorce. Yahweh *describes* how it was intended to work, and *then* hands down His judgment if evil husbands avail themselves of it.

If one wanted to carry over Moses' divorce law into the Church, then logically one would have to carry over Yahweh's ban on reconciling divorced couples. But on Jesus' new teaching reconciliation is to be worked for through forgiveness. Adultery is not the unforgivable sin.

The mistake made by many commentators, who come to the text expecting it to justify divorce, is to mistake the descriptive part as a prescriptive commandment. This is not how Jesus read the text. He read it as a description of

how Moses' divorce law operated, and He saw in His Father's caveat in v. 4, His disapproval of Moses' concession to hard-hearted husbands. Although the law of divorce did not come from Yahweh, the fact that He added a caveat to it, reveals that He accepted that it was here to stay to the end of the Mosaic dispensation. It was impractical to outlaw it completely. It would be like trying to outlaw sin by legislating against it.

In Moses' day, the death penalty was commanded for adultery, so no divorce was permitted for that marital sin, and Moses did not challenge this. However, hard-hearted men had to find some way of getting out of their marriages on non-adultery (i.e., 'not for fornication') charges, and they found a twofold route. (1) They found some "indecent thing" in their wives, and/or (2) they just could not stand them—they hated them. By hook or by crook, they were determined not to live with them. Moses had to deal with a *fait accompli* situation. He could not change the heart of these hard-hearted husbands, which was the only other course open to him. But given that they blocked this route to reconciliation, the best that he could do was to *regulate* their sin.

How did Jesus arrive at His conclusion, when there is nothing in the context of Deuteronomy 24:1-4 that would remotely warrant such a dismissal of that law? The answer is that Jesus could say this authoritatively because He was a contemporary of Moses (He was the 'Rock' that followed them). He brings to the discussion on Deuteronomy 24:1-4 insider knowledge which the rabbis knew nothing about. *He was there*. The Pharisees might have hit back by saying that it was God, not Moses, who gave them this law, but we must go with Jesus who is recorded as saying that "he", i.e., Moses, not Yahweh, wrote this command for you. Jesus then brushes aside all their carefully manicured rabbinic exegesis with the statement, "but from the beginning of creation, male and female God made them. . . ."

God allowed a lot of things which He gave no express permission for, such as worshipping on every high hill throughout the monarchy period. From the death of Solomon to the destruction of the Temple in 586 BC, the nation neglected the Sabbatical Law. God did not step in and force them to keep what they did not want to keep. Moses' divorce law falls into the same category.

It is sometimes argued that if God did not want any Israelite to divorce, why did He not make it an offence punished by extirpation, like other offences of abomination? The answer is, Would there be any men left after a generation of extirpation? We could ask the same of those worshipping on every high hill. If for His own purposes He permitted what He did not command, is that not His prerogative? His stated position is that He hated divorce.

The same objectors claim that God stated two very general grounds by which Israelites could legitimately divorce their wives. So vague and general are these general grounds that under their cover, hard-hearted husbands could sin against their wives without any fear of punishment. A very strange law indeed. Jesus' comment on Deuteronomy 24:1-4 shows that the divorce certificate was introduced by man for men. It was a one-way, discriminatory, male chauvinist, sexist law, that could not come from a righteous God. He would have been even-handed, if He wanted to legitimise divorce. But Deuteronomy 24 does not give women the right to divorce their husbands on grounds of (a) an indecent thing, and (b) hate. So if God is wording the law here my criticism still stands. The discriminatory wording of the divorce law shows that it could not have come from God.

It is alleged that the word 'hate' was a common ANE legal term for divorce. There appears to be a misunderstanding here. As far as I am aware 'hate' is never used as a synonym for divorce in Hebrew. If Deuteronomy 24 is the *only*

place in the OT where it is alleged to carry this significance, but does not, then this amounts to special pleading, does it not?

The term, "an indecent thing", is unrestricted and unqualified. It is open to interpretation—male interpretation—to decide what constitutes "an indecent thing", "anything that offends [the husband]," would be sufficient. You could get any wife divorced with that latitude of interpretation, even burning the family dinner. But it is only what Moses permitted them. They are not going beyond the law, because the law does not restrict the term to sexual misdemeanours. This law gives him absolute power over his wife, because it does not restrict his interpretation.

Jesus' teaching was revolutionary. He was a teacher come from God, and He demolished their entire rabbinical system of divorce, and abolished it as having no place in the new Kingdom of God. The rabbinical system had its origin and roots and sustenance in the mind of hard-hearted men, who would not live by God's law for marriage as encapsulated in Genesis 2:24. *It was an evil system that did not come from God.* It was blatant discrimination against women. It was a system introduced by hard-hearted men, for hard-hearted men, and kept in place by hard-hearted men. Such hard-hearted men cannot enter the Kingdom of God. "Blessed are the meek"

NOTE ON THE INDISSOLUBLE NATURE OF THE 'ONE FLESH' UNION

Those who oppose the indissoluble nature of lawful marriage argue on the basis of 1 Corinthians 6:16 that 'one flesh' unions are breakable. Many of Paul's converts, it is pointed out, would have already become 'one flesh' with several prostitutes, before and after conversion.

In reply it can be pointed out that the truth of the 'one flesh' union is actually illustrated in 1 Corinthians 6:16, for Paul notes, "have you not known that he who is joined to the harlot is one body? 'for they shall be — says He — the two for one flesh.'" Because the married man and the harlot have become 'one flesh' it confirms what happens when intercourse takes place. But in this case it is an illicit union, and an act of adultery against the man's legitimate wife. He technically has two unions going on at the same time. The same goes for all remarriages where both spouses are still living. They are no different *in kind* to a union with a harlot. Just as the 'one flesh' union with the harlot *must* be sundered, because it is inherently an adulterous act, so also must all remarriages be sundered, for they too, are likewise adulterous unions, according to Jesus' teaching.

The lesson from the harlot in 1 Corinthians 6:16, and the lesson from the remarriages in Matthew 19:9-11 / Mark 10:11-12, is that both are illicit 'one flesh' unions, which must be sundered. Jesus made the statement, "Therefore, what God joined together, let man not put asunder." God did not join the man to the harlot. Both in the case of the harlot and the remarriage, the man went against the law of God, and entered into a 'one flesh' relationship with another woman while his wife was still alive. That is a 'one flesh' relationship that *must* be sundered. God demands it. No adulterer/adulteress will enter the Kingdom of God (1 Cor 6:9-10).

There are two texts which confirm that a marriage ends only with the death of one of the parties (1 Cor 7:39f and Rom 7:2). The analogy in Romans 7 is that of the marriage of Christ to the Law. While Christ is alive He

cannot get free from the Law. But when He dies He is freed from the Law. If, however, Christ only divorces the Law, He is still not free from it.

Paul pictures all Christians as being 'in Christ', and when Christ died to the Law on the cross, all Christians likewise died to the Law. When Christ rose from the dead, all Christians also rose from the dead 'in Christ'. Having been given a new life, the Christian is now free to marry the resurrected Christ. The analogy only holds good if the previous marriage is ended by death. If it could be ended by divorce, then the analogy would present another way of being 'married' to Christ, which does not require the death of either Christ or the Christian. But if there is no death, then the second marriage is an adulterous affair. This brings out Paul's understanding of the life-long (or permanent) nature of the 'one flesh' state while both parties are still alive. It requires a death certificate, not a divorce certificate, to be free from the first marriage. And death is the ticket to enter a second marriage. Paul makes this clear in 1 Corinthians 7:39, where "liberty to remarry" is conditional on the death of the spouse. If Paul had believed that divorce ended a marriage then he would have included it in v. 39. The fact that he did not, is consistent with Jesus' teaching that only death can end a marriage.

1 Corinthians 6:16 cannot be used to argue against the indissoluble nature of the 'one flesh' union on the grounds that it can also be used for relationships which are not permanent. *The indissoluble nature of the union lies in its legitimacy in the eyes of God.* If it is a lawful union in His eyes, then it is a permanent union; if it unlawful, then it must be broken off *immediately*.

Where two non-Christians marry, this is a lawful union. Where two Christians marry, this is a lawful union. Where a Christian marries a non-Christian, the union is not adulterous, but the Christian ceases to be a member of the Body of Christ (1 Cor 6:15) because s/he is a defiled (unsanctified) person (cf. 1 Cor 7:14). The Christian in such a union is under an obligation to remain married until death ends the union. If the Christian recognises that s/he has sinned against the Lord Jesus in marrying a non-Christian, and repents of that sin, then they can be restored to membership of the Body of Christ.

END

ROMANS TOOK AWAY THE DEATH PENALTY

The excuse that the Jews in Jesus day were not able to carry out the death penalty because this was taken away from them by the Romans is not borne out by the facts. First, the Mishnah (completed in the early 3rd cent. does not permit divorce for adultery, but agrees with the Torah that the death penalty was still in force. Second, evidence from rabbinic literature shows that the death penalty was carried out while under Roman rule.

COMMENTARY ON SOME TRANSLATIONS OF MATTHEW 19:9

Under §5.12 are four translations of Matthew 19:9 which have been rejected.

No. 1. The phrase, "not [divorced] on account of fornication" or, "not for [her] fornication", could mean that a man married a virgin in all good faith that she was a virgin, but then discovered on his wedding night that she had already slept with another man. He had the right to reject her—"to put her away"—which was another way of saying the marriage was annulled. If such a man 'put away' his wife on grounds of fornication, and somehow she was not stoned to death, Jesus' words may be taken to mean that if he remarries he is not guilty of adultery against his first wife. If a man married a woman in the prohibited

categories of near relatives by some mistake, then the marriage was annulled. Hence it was relevant for Matthew to cover this possibility when writing to the Jews. This may explain why the clause is missing in Mark and Luke. It was irrelevant to their Greek and Roman readers.

The two alternatives, as Jesus sees it, are being divorced (A) on a charge other than the sin of fornication, i.e., “not for fornication”, and (B) on a charge of fornication, i.e., “for fornication”. Jesus puts charge (A) in the form of a hypothetical scenario (“Suppose a man divorces . . .”). His conclusion is if a husband divorces his wife on this charge and remarries, his second marriage is adultery against his wife. But what if the husband divorces her on the second charge, (B), is his second marriage also an adulterous one?

What happens if we omit the negative MH from the translation? It would then read: “Now I say to you that who, say, may have put away his wife—on account of fornication—and may have married another woman, . . .” Is he still guilty of “being adulterous”? The answer lies in God’s laws as laid down in Deuteronomy 22:13-29. The death penalty was compulsory for four sexual sins, (1) if the wife was not a virgin when she married (she is stoned to death), (2) if a man raped a betrothed virgin in the city (both are stoned to death); (3) adultery with a married woman (both killed, usually by stoning, cf. Ezek 23:49); and (4) if a man raped a betrothed virgin in the open field (the man is stoned to death). We now have the answer. According to the Law, if his wife was guilty of fornication then she should have been killed, not divorced (Deut 22:13-19). So, in effect, Jesus was saying that if a man divorced his wife on a non-capital punishment charge, and remarried, he was guilty of adultery, which was itself a capital punishment offence.

No. 2. This translation is self-explanatory. Jesus had to answer lawyers’ questions throughout His ministry. Aware that there was a loop-hole in His “No divorce and No Remarriage” teaching, namely, the case of His own earthly father, Joseph, He put in the lawyer’s exemption clause, which permitted a ‘divorced’ (betrothed) husband to remarry without fear of coming under Jesus’ condemnation. This translation might also cover forbidden categories of marriages entered into by mistake, or where God ordered His people to divorce their foreign wives (Ezra-Neh). The text in these cases would read the same as under (1).

No. 3. “Now I say to you that who, say, may have divorced his wife—but not for adultery—[since that does not qualify for a divorce certificate but for a death certificate]—and may have married another woman, is being adulterous.”

Here Jesus specifically rules out getting a divorce for fornication/adultery, and if they get a divorce on any other grounds, and remarry, they are adulterers. Whichever way they turn, if they have got any kind of divorce they are living outside the will of God.

It is said that the Romans took away the right of a man to kill his wife for adultery. If so, he would have to put her out of his house without a divorce certificate to prevent her becoming another man’s wife, for she should be dead. Whether he could then remarry is a mute point. According to Deuteronomy 24:1-3, he could only remarry after he had divorced his first wife, otherwise he could be accused of bigamy. If they were never divorced, could they ever be reunited, if he forgave her and she repented?

Here Jesus is targeting everyone who obtained a divorce for any reason below the level of adultery. Consequently, the sting comes in Jesus’ pronouncement that whoever separates what His Father has joined, and

remarries, he becomes an adulterer, and comes under His Father's death penalty judgment.

No. 4. "Now I say to you that who, say, may have put away his wife not on account of fornication, and may have married another woman, is being adulterous [against her⁵⁹]." (Or, "not for [her] fornication")." Here Jesus takes the case of a wife who is pure, who has not committed adultery against her husband, and tells His male audience that if they divorce such a pure woman, then they are guilty of committing adultery against her. Probably 99% of the Pharisees who heard Jesus speak obtained their divorces on a 'Not for Fornication' basis. Any Pharisee who remarried after obtaining such a divorce is now an adulterer, Jesus said, because in His eyes they are still man and wife.

Jesus is not saying that if they obtained a divorce 'for fornication' that they were right to do so. Such a divorce was against the Law. His point was that the one who introduced adultery into the marriage was the husband, because if his wife had been guilty of fornication she should have been killed, and if she did not commit adultery, and he divorced her, and remarries, he becomes the adulterer and walks straight into a death penalty crime. He has broken the seventh commandment: "You shall not commit adultery."

Jesus would have pointed out that a husband had no warrant from His Father to commute a death penalty into a divorce penalty. However, that is not what is in Jesus' mind here. He simply points out that divorce was never allowed by God, and that if any man divorces his wife for any reason, then he is an adulterer, and deserves to die.

Jesus knew supernaturally that the woman at the well had had five husbands and the present one was not her husband, which suggests that her first, and only legitimate, husband was still alive. Jesus did not recognise her present husband as a legitimate husband. In His eyes she was an adulteress. Knowing His audience of Pharisees, He no doubt knew how all of them had obtained their divorces, hence He puts the focus on the 'Not for Fornication' grounds of their divorce. These are the husbands who are now under God's judgment of death for the sin of adultery. How did they feel as they made their way home to their second (or third) wives, who were now viewed as adulteresses?

(End of supplementary Notes)

⁵⁹ Added in Mark 10:11. Note there should be no comma after 'wife' in this translation.