

Objection 1. It would seem that it was lawful to divorce a wife under the Mosaic law. For one way of giving consent is to refrain from prohibiting when one can prohibit. It is also unlawful to consent to what is unlawful. Since then the Mosaic law did not forbid the putting away of a wife and did no wrong by not forbidding it, for “the law... is holy” (Rom. 7:12), it would seem that divorce was at one time lawful.

Objection 2. Further, the prophets spoke inspired by the Holy Ghost, according to 2 Pet. 1:21. Now it is written (Malachi 2:16): “When thou shalt hate her, put her away.” Since then that which the Holy Ghost inspires is not unlawful, it would seem that it was not always unlawful to divorce a wife.

Objection 3. Further, Chrysostom* says that even as the apostles permitted second marriages, so Moses allowed the bill of divorce. But second marriages are not sinful. Therefore neither was it sinful under the Mosaic law to divorce a wife.

Objection 4. On the contrary, our Lord said (Mat. 19:8) that Moses granted the Jews the bill of divorce by reason of the hardness of their heart. But their hardness of heart did not excuse them from sin. Neither therefore did the law about the bill of divorce.

Objection 5. Further, Chrysostom says† that “Moses, by granting the bill of divorce, did not indicate the justice of God, but deprived their sin of its guilt, for while the Jews acted as though they were keeping the law, their sin seemed to be no sin.”

I answer that, on this point there are two opinions. For some say that under the Law those who put away their wives, after giving them a bill of divorce, were not excused from sin, although they were excused from the punishment which they should have suffered according to the Law: and that for this reason Moses is stated to have permitted the bill of divorce. Accordingly they reckon four kinds of permission: one by absence of precept, so that when a greater good is not prescribed, a lesser good is said to be permitted: thus the Apostle by not prescribing virginity, permitted marriage (1 Cor. 7). The second is by absence of prohibition: thus venial sins are said to be permitted because they are not forbidden. The third is by absence of prevention, and thus all sins are said to be permitted by God, in so far as He does not prevent them whereas He can. The fourth is by omission of punishment, and in this way the bill of divorce was permitted in the Law, not indeed for the sake of obtaining a greater good, as was the dispensation to have several wives, but for the sake of preventing a greater evil, namely wife-murder to which the Jews were prone on account of the corruption of their irascible appetite. Even so they were allowed to lend money

for usury to strangers, on account of corruption in their concupiscible appetite, lest they should exact usury of their brethren; and again on account of the corruption of suspicion in the reason they were allowed the sacrifice of jealousy, lest mere suspicion should corrupt their judgment. But because the Old Law, though it did not confer grace, was given that it might indicate sin, as the saints are agreed in saying, others are of opinion that if it had been a sin for a man to put away his wife, this ought to have been indicated to him, at least by the law or the prophets: “Show My people their wicked doings” (Is. 58:1): else they would seem to have been neglected, if those things which are necessary for salvation and which they knew not were never made known to them: and this cannot be admitted, because the righteousness of the Law observed at the time of the Law would merit eternal life. For this reason they say that although to put away one’s wife is wrong in itself, it nevertheless became lawful by God’s permitting it, and they confirm this by the authority of Chrysostom, who says‡ that “the Lawgiver by permitting divorce removed the guilt from the sin.” Although this opinion has some probability the former is more generally held: wherefore we must reply to the arguments on both sides§.

Reply to Objection 1. He who can forbid, sins not by omitting to forbid if he has no hope of correcting, but fears by forbidding to furnish the occasion of a greater evil. Thus it happened to Moses: wherefore acting on Divine authority he did not forbid the bill of divorce.

Reply to Objection 2. The prophets, inspired by the Holy Ghost, said that a wife ought to be put away, not as though this were a command of the Holy Ghost, but as being permitted lest greater evils should be perpetrated.

Reply to Objection 3. This likeness of permission must not be applied to every detail, but only to the cause which was the same in both cases, since both permissions were granted in order to avoid some form of wickedness.

Reply to Objection 4. Although their hardness of heart excused them not from sin, the permission given on account of that hardness excused them. For certain things are forbidden those who are healthy in body, which are not forbidden the sick, and yet the sick sin not by availing themselves of the permission granted to them.

Reply to Objection 5. A good may be omitted in two ways. First, in order to obtain a greater good, and then the omission of that good becomes virtuous by being directed to a greater good; thus Jacob rightly omitted to have only one wife, on account of the good of the offspring. In another way a good is omitted in order to avoid a greater evil, and then if this is done with

* Hom. xxxiii in the Opus Imperfectum falsely ascribed to St. John Chrysostom † Hom. xxxii in the Opus Imperfectum falsely ascribed to St. John Chrysostom ‡ Hom. xxxii in the Opus Imperfectum falsely ascribed to St. John Chrysostom § Cf. Ia IIae, q. 105, a. 4, ad 8; Ia IIae, q. 108, a. 3, ad 2; Contra Gentes iii, cap. 123

the authority of one who can grant a dispensation, the omission of that good is not sinful, and yet it does not also become virtuous. In this way the indissolubility of marriage was suspended in the law of Moses in order to avoid a greater evil, namely wife-murder. Hence Chrysostom says that “he removed the guilt from the sin.” For though divorce remained inordinate, for which reason it is called a sin, it did not incur the debt of punishment, either temporal or eternal, in so far as it was done by Divine permission: and thus its guilt was taken away from it. And therefore he says again[¶] that “divorce was permitted, an evil indeed, yet lawful.” Those who hold the first opinion understand by this only that divorce incurred the debt of temporal punishment.

[¶] Hom. xxxiii in the *Opus Imperfectum* falsely ascribed to St. John Chrysostom