

The Doctrine & Discipline of Divorce
John Milton (1644)

Restor'd to the good of both SEXES, From the bondage of CANON LAW, and other mistakes, to the true meaning of Scripture in the Law and Gospel compar'd.

Wherin also are set down the bad consequences of abolishing or condemning of Sin, that which the Law of God allowes, and Christ abolisht not.

Now the second time revis'd and much augmented, In Two BOOKS: To the Parliament of *England* with the Assembly.

The Author *J. M.*

MATTH. 13.52.

Every Scribe instructed to the Kingdome of Heav'n, is like the Maister of a house which bringeth out of his treasury things new and old.

Prov. 18.13

He that answereth a matter before he heareth it, it is folly and shame unto him.

LONDON

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I. BOOKE.

The Preface.

That Man is the occasion of his owne miseries, in most of those evils which hee imputes to Gods inflicting. The absurdity of our canonists in their decrees about divorce. The Christian imperiall Lawes fram'd with more Equity. The opinion of Hugo Grotius, and Paulus Fagius: And the purpose in generall of this Discourse.

MAny men, whether it be their fate, or fond opinion, easily perswade themselves, if God would but be pleas'd a while to withdraw his just punishments from us, and to restraints what power either the devill, or any earthly enemy hath to worke us woe, that then mans nature would find immediate rest and releasement from all evils. But verily they who think so, if they be such as have a minde large enough to take into their thoughts a generall survey of human things, would soon prove themselves in that opinion farre deceiv'd. For though it were granted us by divine indulgence to be exempt from all that can beharmfull to us from without, yet the perversnesse of our folly is so bent, that we should never lin hammering out of our owne hearts, as it were out of a flint, the seeds and sparkles of new misery to our selves, till all were in a blaze againe. And no marvell if out of our own hearts, for they are evill but ev'n out of those things which God meant us, either for a principall good, or a pure contentment, we are still hatching and contriving upon our selves matter of continuall sorrow and perplexitie. What greater good to

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man then that revealed rule, whereby God vouchsafes to shew us how he would be worshipt? And yet that not rightly understood, became the cause that once a famous man in *Israel* could not but oblige his conscience to be the sacrificer, or if not, the jaylor of his innocent and only daughter. And was the cause oft-times that Armies of valiant men have given up their throats to a heathenish enemy on the Sabbath day: fondly thinking their defensive resistance to be as then a work unlawfull. What thing more instituted to the solace and delight of man then marriage, and yet the mis-interpreting of some Scripture directed mainly against the abusers of the Law for divorce giv'n by Moses, hath chang'd the blessing of matrimony not seldome into a familiar and co-inhabiting mischiefe; at least into a drooping and disconsolate household captivity, without refuge or redemption. So ungovern'd and so wild a race doth superstition run us from one extreme of abused liberty into the other of unmercifull restraint. For although God in the first ordaining of marriage, taught us to what end he did it, in wordsexpresly implying the apt and cheerfull conversation of man with woman, to comfort and refresh him against the evil of solitary life, not mentioning the purpose of generation till afterwards, as being but a secondary end in dignity, though not in necessity; yet now, if any two be but once handed in the Church, and have tasted in any sort the nuptiall bed, let them finde themselves never so mistak'n in their dispositions through any error, concealment, or misadventure, that through their different tempers, thoughts, and constitutions, they can neither be to one another a remedy against lonelines, nor live in any union or contentment all their dayes, yet they shall, so they be but found suitably weapon'd to the least possibility of sensuall enjoyment, be made, spight of antipathy to fadge together, and combine as they may to their unspeakable wearisomnes and despaire of all sociable delight in the ordinance which God establish't to that very end. What a calamity is this, and as the Wiseman, if he were alive, would sigh out in his own phrase, what a sore evill is this under the Sunne! All which we can referre justly to no other author then the Canon Law and her adherents, not consulting with charitie, the interpreter and guide of our faith, but resting in the meere element of the Text; doubtles by the policy of the devill to make that gracious ordinance become unsupportable, that what with men not daring to venture upon wedlock, and what with men wearied out of it, all inordinate licence might abound. It was for many ages that mariage lay in disgrace with most of the ancient Doctors, as a work of the flesh, almost a defilement, wholly deny'd to Priests, and the second time dissuaded to all, as he that reads Tertullian or Ierom may see at large. Afterwards it was thought so Sacramental, that no adultery or desertion could dissolve it; and this is the sense of our Canon Courts in *England* to this day, but in no other reformed Church els: yet there remains in them also a burden on it as heavie as the other two were disgracefull or superstitious, and of as much iniquity, crossing a Law not onely writt'n by Moses, but character'd in us by nature, of more antiquity and deeper ground then marriage it selfe; which Law is to force nothing against the faultles proprieties of nature: yet that this may be colourably done, our Saviours words touching divorce, are as it

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were congeal'd into a stony rigor, inconsistent both with his doctrine and his office; and that which he preacht onely to the conscience, is by Canonically tyranny snatcht into the compulsive censure of a judiciall Court; where Laws are impos'd even against the venerable and secret power of natures impression, to love what ever cause be found to loath. Which is a hainous barbarisme both against the honour of marriage, the dignity of man and his soule, the goodnes of Christianitie, and all the humane respects of civilitie. Notwithstanding that some the wisest and gravest among the Christian Emperours, who had about them, to consult with, those of the Fathers then living, who for their learning and holines of life are still with us in great renowne, have made their statutes and edicts concerning this debate, far more easie and relenting in many necessary cases, wherein the Canon is inflexible. And Hugo Grotius, a man of these times, one of the best learned, seems not obscurely to adhere in his perswasion to the equity of those Imperiall decrees, in his notes upon the Evangelists, much allaying the outward roughnesse of the Text, which hath for the most part been too immoderately expounded; and excites the diligence of others to enquire further into this question, as containing many points that have not yet been explain'd. Which ever likely to remain intricate and hopelesse upon the suppositions commonly stuck to, the authority of Paulus Fagius, one so learned and so eminent in *England* once, if it might perswade, would strait acquaint us with a solution of these differences, no lesse prudent then compendious. He in his comment on the *Pentateuch* doubted not to maintain that divorces might be as lawfully permitted by the Magistrate to Christians, as they were to the Jewes. But because he is but briefe, and these things of great consequence not to be kept obscure, I shall conceive it nothing above my duty either for the difficulty or the censure that may passe thereon, to communicate such thoughts as I also have had, and do offer them now in this generall labour of reformation, to the candid view both of Church and Magistrate; especially because I see it the hope of good men, that those irregular and unspirituall Courts have spun their utmost date in this Land; and some beter course must now be constituted. This therefore shall be the task and period of this discourse to prove, first that other reasons of divorce besides adultery, were by the Law of *Moses*, and are yet to be allow'd by the Christian Magistrate as a peece of justice, and that the words of Christ are not hereby contraried. Next, that to prohibit absolutely any divorce whatsoever except those which *Moses* excepted, is against the reason of Law, as in due place I shall shew out of *Fagius* with many additions. He therefore who by adventuring shall be so happy as with successe to light the way of such an expedient liberty and truth as this, shall restore the much wrong'd and over-sorrow'd state of matrimony, not onely to those mercifull and life-giving remedies of *Moses*, but, as much as may be, to that serene and blisfull condition it was in at the beginning; and shall deserve of all apprehensive men (considering the troubles and distempers which for want of this insight have bin so oft in Kingdomes, in States and Families) shall deserve to be reck'n'd among the publick benefactors of civill and humane life; above the inventors of wine

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and oyle; for this is a far dearer, far nobler, and more desirable cherishing to mans life, unworthily expos'd to sadnes and mistake, which he shall vindicate. Not that licence and levity and unconsented breach of faith should herein be countnanc't, but that some conscionable, and tender pitty might be had of those who have unwarily in a thing they never practiz'd before, made themselves the bondmen of a luckles andhelples matrimony. In which Argument he whose courage can serve him to give the first onset, must look for two severall oppositions: the one from those who having sworn themselves to long custom and the letter of the Text, will not out of the road: the other from those whose grosse and vulgar apprehensions conceit but low of matrimoniall purposes, and in the work of male and female think they have all. Neverthesse, it shall be here sought by due wayes to be made appeare, that those words of God in the institution, promising a meet help against lonelines, and those Words of Christ, That his yoke is easie, and his burden light, were not spoken in vain; for if the knot of marriage may in no case be dissolv'd but for adultery, all the burd'ns and services of the Law are not so intolerable. This onely is desir'd of them who are minded to judge hardly of thus maintaining, that they would be still, and heare all out, nor think it equal to answer deliberate reason with sudden heat and noise; remembering this, that many truths now of reverend esteem and credit, had their birth and beginning once from singular and private thoughts; while the most of men were otherwise possess'd; and had the fate at first to be generally exploded and exclaim'd on by many violent opposers: yet I may erre perhaps in soothing my selfe that this present truth reviv'd, will deserve on all hands to be not sinisterly receiv'd, in that it undertakes the cure of an inveterate disease crept into the best part of humane societie: and to doe this with no smarting corrosive, but with a smooth and pleasing lesson, which receiv'd hath the vertue to soften and dispell rooted and knotty sorrowes; and without inchantment if that be fear'd, or spell us'd, hath regard at once both to serious pitty and upright honesty; that tends to the redeeming and restoring of none but such as are the object of compassion; having in an ill houre hamper'd themselves to the utter dispatch of all their most beloved comforts and repose for this lives term. But if we shall obstinately dislike this new overture of unexpected ease and recovery, what remains but to deplore the frowardnes of our hopeles condition, which neither can endure the estate we are in, nor admit of remedy either sharp or sweet. Sharp we our selves distast; and sweet, under whose hands we are, is scrupl'd and suspected as too lushious. In such a posture Christ found the lews, who were neither won with the austerity of John the Baptist, and thought it too much licence to follow freely the charming pipe of him who sounded and proclaim'd liberty and relief to all distresses: yet Truth in some age or other will find her witnes, and shall be justify'd at last by her own children.

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