

Mr. SMITH: This is the brief as we have prepared it:

A BRIEF CONCERNING CANADIAN LEGISLATION ON DIVORCE

To the Joint Committee of the Senate and House of Commons on Divorce.

The Board of Evangelism and Social Action of the Presbyterian Church in Canada has already informed the joint committee of the position taken by the General Assembly of the Presbyterian Church in Canada with respect to the grounds for divorce. This position was taken in June 1963 when the General Assembly adopted the following recommendation from its Board of Evangelism and Social Action: "Whereas the teaching of the Westminster Confession of Faith re Marriage and Divorce (chapter 24, section 6) is that 'although the corruption of man be such as is to study arguments, unduly to put asunder those whom God hath joined together in marriage; yet nothing but adultery, or such wilful desertion as can no way be remedied by the Church or the Civil Magistrate, is cause sufficient of dissolving the bond of marriage: wherein a public and orderly course of proceeding is to be observed, and the persons concerned in it not left to their own wills and discretion in their own case'; we, therefore, recommend that the General Assembly urge the federal Government to appoint a Royal Commission on Divorce to consider such grounds for divorce in addition to adultery as 'Wilful desertion as can no way be remedied by the Church or Civil Magistrate'."

It is therefore the stated position of the Presbyterian Church in Canada that other grounds for divorce exist alongside the grounds of adultery. These additional grounds are called "Wilful Desertion" in the Westminster Confession of Faith. This document forms the subordinate standard of our Church's doctrine, in that we find it agreeable to the Word of God.

It is the purpose of this brief to present supportive reasons why present law on divorce ought to be amended so as to include such additional grounds as are here called "Wilful Desertion".

Supportive Reasons

I. The Break-down of Marriage.

The bible understands marriage as an indissoluble union between a consenting man and woman, for their mutual help, the raising up of legitimate issue and for the good ordering of family life and society. The bible thinks of marriage as a wedding of the soul and body of a man and woman of such a profound kind that "they become one flesh".

Thus the Christian Church has always believed that God's Will is that marriage be permanent.

But the bible and Christian tradition are completely realistic in acknowledging the capacity of man, in his sin and weakness, to frustrate the purpose of God. Sin or weakness (or both) is apt to destroy relationships between God and man, between man and his neighbour, between a man and his wife. It is thus possible for a marriage to die, and death may result from other causes besides adultery.

II. The Nature of Wilful Desertion.

It is necessary to ascertain, if we can, what the authors of the Westminster Confession of Faith meant by the expression "Wilful Desertion". The Rev. Dr. L. H. Fowler who has studied this matter is of the opinion that wilful desertion meant the rejection of the one flesh relationship. He says: "Desertion is not a matter of geography, but one of not continuing to consummate the marriage. A wilful geographic separation is desertion, but there can be the same desertion