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Religion, Divorce, and the Missing Culture War in America

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In his speech to the Republican National Convention in 1992, Patrick Buchanan seized the pulpit to proclaim that Americans were fighting an intense culture war. This was a struggle “for the soul of America,” Buchanan declared, “as critical to the kind of nation we will one day be as was the Cold War itself.”¹ Just a year earlier, sociologist James Davison Hunter had written of a culture war waged between those with orthodox and progressive worldviews.² With one side believing in a fixed and transcendent authority, and the other invoking human reason as the guide to morality, conflict invariably engulfed a range of political issues. Considering the context of incendiary debates over public funding for the arts, the legality of abortion, civil rights for gays and lesbians, and teaching evolution in public school classrooms, Hunter’s analysis seemed an accurate description of American politics in the 1980s and 1990s.

Subsequent research by social scientists, however, cast doubt on that vision of America as marked by contentious battles between contending worldviews. Surveys and interviews revealed the American public to be far less divided, even on controversial issues like abortion and homosexuality, than the culture war metaphor would predict.³ Some scholars gravitated toward a less-sweeping claim that the culture war applied to elites, especially activists, interest groups,

¹ Patrick J. Buchanan, “1992 Republican National Convention Speech,” accessed at <http://www.buchanan.org/pa-92-0817-rnc.html>, 29 January 2008.

² James Davison Hunter, *Culture Wars: The Struggle to Define America* (New York: Basic Books, 1991).

³ Paul DiMaggio, John Evans, and Bethany Bryson, “Have Americans’ Social Attitudes Become More Polarized?” *The American Journal of Sociology* 102 (November 1996): 690–755; Nancy J. Davis and Robert V. Robinson, “Are the Rumors of War Exaggerated? Religious Orthodoxy and Moral Progressivism,” *The American Journal of Sociology* 102 (November 1996): 756–787; Alan Wolfe, *One Nation, After All: What Middle-Class Americans Really Think about God, Country, Family, Racism, Welfare, Immigration, Homosexuality, the Right, the Left, and Each Other* (New York: Viking, 1998).

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and social movements, but not to the public at large.⁴ Hunter maintained that the culture war was nonetheless important because elites control the images, symbols, and narratives that eventually seep into mass politics.⁵ Other scholars countered that ordinary Americans, who are often apathetic, hold moderate views on political issues and ignore the cacophony of polarizing voices among elites.⁶ The degree to which ordinary Americans have polarized into hardened camps remains a point of scholarly dissension.⁷

This paper aims to add to this scholarly literature by examining how issues become linked to the culture war. To understand the culture war, it is not sufficient merely to study issues currently experiencing serious conflict, for that approach ignores important dynamics in the battle over values. One must also ask why certain issues that conceivably could emerge as major fronts of the culture war, and that actually did inspire fierce battles in earlier periods of American history, now cause nary a minor skirmish. Divorce represents a prime example of such an issue. A study of the history of divorce in America shows that scholars need to understand the culture war as more than just a contest between competing worldviews. As E.E. Schattschneider's work and subsequent research on agenda setting would suggest, an equally important question is how issues come to be either mobilized in or mobilized out of the political struggle over values.⁸

From the standpoint of simple logic, divorce fits cleanly within the category of "family values" and hence hypothetically could represent a driving force in the larger culture war. If "family values" refers to ethics and behavior that affect, well, families, then divorce obviously should qualify. Indeed, divorce seems to carry a more direct connection to the daily realities of families than do the bellwether culture war issues of abortion and homosexuality. Divorced Americans, who comprise a large percentage of the total adult population, commonly face serious financial and emotional stresses during and after the

⁴ Morris P. Fiorina, with Samuel J. Abrams and Jeremy C. Pope, *Culture War? The Myth of a Polarized America* (New York: Pearson Longman, 2005).

⁵ James Davison Hunter, "The Enduring Culture War," in James Davison Hunter and Alan Wolfe, *Is There a Culture War? A Dialogue on Values and American Life* (Washington, DC: Brookings Institution Press, 2006), 10–40.

⁶ Alan Wolfe, "The Culture War that Never Came," in Davison and Wolfe, *Is There a Culture War?*; Morris P. Fiorina, "Comment: Further Reflections on the Culture War Thesis," in Davison and Wolfe, *Is There a Culture War?*, 41–73.

⁷ Alan Abramowitz and Kyle Saunders, "Why Can't We All Just Get Along? The Reality of a Polarized America," *The Forum* 3 (2005): Issue 2, Article 1, accessed at <http://www.bepress.com/forum/vol3/iss2/art1>, 29 January 2008; Alan Abramowitz and Kyle L. Saunders, "Is Polarization a Myth?" *The Journal of Politics* 70 (April 2008): 542–555; Morris P. Fiorina, Samuel A. Abrams, and Jeremy C. Pope, "Polarization in the American Public: Misconceptions and Misreadings," *The Journal of Politics* 70 (April 2008): 556–560.

⁸ E.E. Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (New York: Holt, Reinhart, and Winston, 1960).

dissolution of their marriages. When the consequences for children are considered, it becomes even easier to imagine divorce as a polarizing political issue. While many children could not even describe what it means to have an abortion or be gay or lesbian, they readily grasp—either firsthand or through the experiences of friends—the strained parental relationships and complicated custodial arrangements that often accompany divorce.

Yet one need not rely on logic alone to see that the subject of divorce, and its regulation through state laws, potentially could cause substantial political turmoil. Earlier in American history, the laws governing divorce actually did arouse widespread controversy as religious groups pushed for changes in public policy to make it consistent with the Bible's prescriptions. With the words of the Bible as their guide, Christian individuals and organizations staked out firm political positions on divorce and used articles, pamphlets, reports, and books to press their demands to governors, to state legislatures, and even to an institution without constitutional authority over the matter, the U.S. Congress. Perhaps surprisingly, Christian groups later backed away from vigorous political advocacy on divorce even as they mobilized around other issues tied to their religious beliefs. The manner in which this process unfolded sheds considerable light on why divorce is absent from today's culture war. An explanation of the political disengagement from the issue in contemporary times, then, can properly begin with an examination of its historical development.

The lessons learned from the history of divorce will challenge the assumption of a strict separation between elites and masses that underlies much of the recent scholarly analysis of the culture war. In the case of divorce, elites find it difficult to advocate for stricter laws, because the religious populations that theoretically might embrace such a message are themselves subject to the same pressures and trends on divorce as the rest of American society. Elites do not place divorce on the political agenda because they are constrained from doing so by the lack of support from their mass constituencies. Studying issues that are “missing” from the culture war, as this paper does, therefore yields a new perspective on elites and masses in the culture war, showing them to be more tightly connected than previous research would suggest.

To advance this new perspective, I analyze the history of divorce in America, explaining how the evolution of laws, social practices, Biblical interpretations, and public opinion combined to remove divorce from the nation's political agenda. The transformation of divorce from a political subject worthy of impassioned debate into a private matter handled outside the public arena illustrates the ways in which religious perspectives adapt and change alongside the surrounding culture. Instead of following a fixed and enduring moral compass on divorce, religious groups in America—including those that view the Bible as the inerrant Word of God—gradually accommodated a cultural trend that gained widespread acceptance. The story of how and why divorce eventually faded from political view begins with one of America's earliest religious groups, the Puritans.

MARRIAGE AND DIVORCE IN THE AMERICAN COLONIES

Novelists, playwrights, and social critics have not been kind to the Puritans who populated the colonies of New England. Nathaniel Hawthorne portrayed them as zealots who used any and all means to enforce the community's moral standards on wayward members.⁹ H.L. Mencken went one step further in defining Puritanism as "the haunting fear that someone, somewhere, may be happy," and secular writers continue to invoke the Salem witch trials as a warning against religious traditions that stifle dissent.¹⁰ Even when explicit awareness of the Puritans fades from the American conscience, their legacy for the English language remains. Labeling people as "puritanical" is tantamount to calling them rigid, prudish, and narrow-minded.

In light of these common understandings, one might have expected the Puritans to take a hard line on divorce. After all, their religious commonwealths demanded social conformity and a broad respect for authority, with sexual behavior and family life closely regulated through laws and customs. Compared to the permissive attitudes toward divorce prevailing in America today, the Puritans do indeed appear strict and exacting. Placed within their own context of the seventeenth and eighteenth centuries, however, they seem downright loose in their approach. In fact, they contributed to historical processes that would culminate in today's high rates of divorce and public acceptance of the practice. The Puritan colonies thus offered the first, though far from the last, example of how people's theological orientations do not necessarily predict their beliefs, let alone their behaviors, regarding divorce.

The first known divorce in the English settlements occurred in Massachusetts Bay Colony in 1639. The best available records indicate that the colony subsequently granted at least 31 divorces up to 1692, the year that Parliament combined it with Plymouth Bay Colony into one administrative unit. Other Puritan colonies followed similar practices. In the middle of the seventeenth century, New Haven became the first colony in North America to codify through legislation the allowable grounds for divorce, which were defined to encompass adultery, desertion, and impotence. Shortly after the American Revolution, Northern states passed statutes permitting divorce for reasons such as adultery, impotence, extreme cruelty, desertion of a specified number of years, and the failure of a husband to provide for his wife.¹¹

Although formalizing divorce procedures through legislation helped to standardize practices within a given colony or state, it created a visible target by openly declaring what reasons could justify a divorce. Christians who believed that political decisions should be guided by the Bible could easily read

⁹ Nathaniel Hawthorne, *The Scarlet Letter* (New York: Reinhart, 1947 [1850]).

¹⁰ H.L. Mencken, *A Mencken Chrestomathy* (New York: A. A. Knopf, 1949), 310.

¹¹ Nelson Manfred Blake, *The Road to Reno: A History of Divorce in the United States* (New York: Macmillan, 1962), 34–40; Glenda Riley, *Divorce: An American Tradition* (New York: Oxford University Press, 1991), 11–23, 44–49.

the statute and compare it with the teachings of their scriptures. Invariably, the statute would be more permissive toward divorce than the Bible allowed, leading many clergy and lay worshippers alike to wonder how their society found itself in such a predicament. The Puritan minister Benjamin Trumbull of Connecticut penned a short book on the subject, in which he advocated overturning the laws allowing marriages to be dissolved. Trumbull declared emphatically that “divorces, as practiced in this state, are directly opposed to the authority of JESUS CHRIST.”¹² The words of Jesus, Trumbull continued, “demonstratively evinced the unlawfulness of divorces, in all cases whatsoever, excepting those of incontinency, when the marriage hath been legal.”¹³ As the term was used in the eighteenth century, “incontinency” referred to indulging improper sexual passions; in the context of marriage, those passions would normally involve adultery.

Other learned clergymen, including the president of Yale College, shared Trumbull’s theological position and sought to publicize it to a wide audience. Founded as an institution to train men for the ministry, Yale offered a platform from which its president, Timothy Dwight IV, could condemn divorce in a series of lectures that were collected and published posthumously beginning in 1818. On the basis of the teachings of Jesus and Paul, Dwight declared that “divorces, for any cause except incontinence, are unlawful.” Using public records available to him, Dwight calculated that “one out of every hundred married pairs” in Connecticut had divorced in a five-year period—an unconscionably high rate of divorce that Dwight labeled “evil” and “alarming.”¹⁴

THE NEW TESTAMENT AND TRADITIONAL PROTESTANT DOCTRINES ABOUT DIVORCE

On the basis of a straightforward reading of relevant passages from the Bible, one could conclude that Benjamin Trumbull and Timothy Dwight offered plausible interpretations of its prescriptions regarding divorce. I will focus here on the New Testament because, as we will see, Jesus explicitly overturns important parts of the body of teaching relating to marriage and divorce that Moses had delivered to the Israelites. Consider Luke 16:18, where Jesus decrees (in the New International Version translation, used throughout this

¹² Benjamin Trumbull, *An Appeal to the Public, Especially to the Learned, With Respect to the Unlawfulness of Divorces, in All Cases, Excepting Those of Incontinency. The substance of the argument was pleaded before the Consociation of the County of New-Haven, December 9th, 1785. To which an appendix is subjoined, exhibiting a general view of the laws and customs of Connecticut, and of their deficiency respecting the point in dispute* (New Haven, CT: J. Meigs, 1788), 5, accessed at <http://galenet.galegroup.com.offcampus.lib.washington.edu/servlet/ECCO>, 29 January 2008.

¹³ Trumbull, *An Appeal*, 6.

¹⁴ Timothy Dwight IV, *Theology, Explained and Defined in a Series of Sermons*, vol. 4 (London: J. Haddon, 1824), 253, 267.

paper): “Anyone who divorces his wife and marries another woman commits adultery, and the man who marries a divorced woman commits adultery.” Note that in this quote, Jesus lists no conditions under which divorce would be permissible.

In the opening verses of the Gospel of Mark, chapter 10, Jesus gives a longer disquisition on the subject:

Jesus then left that place and went into the region of Judea and across the Jordan. Again crowds of people came to him, and as was his custom, he taught them. Some Pharisees came and tested him by asking, “Is it lawful for a man to divorce his wife?” “What did Moses command you?” he replied. They said, “Moses permitted a man to write a certificate of divorce and send her away.” “It was because your hearts were hard that Moses wrote you this law,” Jesus replied. “But at the beginning of creation God ‘made them male and female.’ ‘For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh.’ So they are no longer two, but one. Therefore what God has joined together, let man not separate.” When they were in the house again, the disciples asked Jesus about this. He answered, “Anyone who divorces his wife and marries another woman commits adultery against her. And if she divorces her husband and marries another man, she commits adultery.”

One can readily see that in Luke’s and Mark’s accounts of Jesus’s words, divorce with remarriage is strictly forbidden. Jesus allows no exceptions, proclaiming that “what God has joined together, let man not separate.” According to these passages, anyone who divorces and then remarries thereby commits adultery. Given that the Ten Commandments prohibit adultery, and Jesus (Mark 7:21) later describes adultery as one of the “evils” that come out of people’s bodies, this is a grave matter indeed. These words cannot help but give pause to any Christian who has ever received a divorce or even contemplated seeking one.

Deriving the correct interpretation is not so simple, though, because the Gospel of Matthew includes a slightly different version of these teachings that seemingly changes their meaning. While Matthew 19:1–9 closely resembles, in parts nearly word for word, Mark 10:1–12, there is one key difference. In Mark’s Gospel, the Pharisees test Jesus by asking, “Is it lawful for a man to divorce his wife?” In Matthew’s Gospel, by contrast, the Pharisees ask, “Is it lawful for a man to divorce his wife for any and every reason?” At the end of the passage (Matthew 19:9), Jesus gives the answer: “I tell you that anyone who divorces his wife, except for marital unfaithfulness, and marries another woman commits adultery.” Matthew carves out the same exception for divorce in 5:31–32, where he records Jesus’s words as “It has been said, ‘Anyone who divorces his wife must give her a certificate of divorce.’ But I tell you that anyone who divorces his wife, except for marital unfaithfulness, causes her to become an adulteress, and anyone who marries the divorced woman commits adultery.”

Thus, whereas Jesus in the Gospels of Mark and Luke allows no exceptions, Jesus states in the Gospel of Matthew that “marital unfaithfulness” provides the

single acceptable reason for the non-offending partner to request a divorce. There is no obvious way to handle the discrepancy among the Synoptic Gospels. Like Benjamin Trumbull and Timothy Dwight, most Protestant theologians have given precedence to the verses in Matthew that permit divorce in cases of marital infidelity. The reasoning typically holds that Matthew either recorded the words of Jesus as elaborated on a different occasion than that in the account in Mark or, led by the Holy Spirit, Matthew added his own authoritative voice to resolve the matter.¹⁵ A smaller number of interpreters have concluded that Jesus taught the stricter rules prescribed in Mark and Luke, with the exception in Matthew representing a later and unauthorized addition, by either Matthew himself or subsequent scribes who copied his manuscript, to Jesus's original words.¹⁶

As he does on many questions, the apostle Paul offers other statements that help Christians determine the proper stance toward divorce. In his first letter to the Corinthians (7:10–15), Paul writes:

To the married I give this command (not I, but the Lord): A wife must not separate from her husband. But if she does, she must remain unmarried or else be reconciled to her husband. And a husband must not divorce his wife. To the rest I say this (I, not the Lord): If any brother has a wife who is not a believer and she is willing to live with him, he must not divorce her. And if a woman has a husband who is not a believer and he is willing to live with her, she must not divorce him. For the unbelieving husband has been sanctified through his wife, and the unbelieving wife has been sanctified through her believing husband. Otherwise your children would be unclean, but as it is, they are holy. But if the unbeliever leaves, let him do so. A believing man or woman is not bound in such circumstances; God has called us to live in peace.

Paul begins this passage by relaying Jesus's command that wives must not separate from their husbands, and husbands must not divorce their wives. Paul then adds his own clarification that believers must not divorce their spouses so long as those partners are willing to live with them. When he refers to a "believer," he clearly means a "believer in Christ"—and herein arises the complication for knowing when divorce might be permitted. Paul states that "if the unbeliever leaves"—that is, deserts the Christian partner—then the Christian should "let him do so" and "is not bound in such circumstances."

What does Paul mean when he says that the Christian is "not bound" or, in other translations of his original Greek phrase, "not under bondage"? Once again, Christians over the centuries have been forced to make interpretations

¹⁵ William A. Heth, "Jesus on Divorce: How My Mind Has Changed," *Southern Baptist Journal of Theology* 6 (Spring 2002): 10.

¹⁶ John Nolland, "The Gospel Prohibition of Divorce: Tradition History and Meaning," *Journal for the Study of the New Testament* 17 (1995): 19–35; Nolan Patrick Howlington, "The Historic Attitude of the Christian Churches Concerning Marriage, Divorce, and Remarriage." (Ph.D. diss., Southern Baptist Theological Seminary, 1948), 69–70.

with vast consequences based on little in the way of explicit textual guidance. Many Protestant theologians, led by John Calvin, have deduced that the “not bound” clause allows the deserted partner to obtain a divorce and remarriage.¹⁷ Without this expansive reading, one could argue, the Christian partner would remain tied in law, if not in practice, to the non-Christian spouse who caused the situation through abandonment. A narrower Protestant interpretation analyzes the meaning and context of Paul’s words to conclude that the “not bound” clause refers to separation, or what has often been known as divorce of bed and board, rather than a complete divorce with the possibility of remarriage.¹⁸

CATHOLIC DOCTRINES, PROTESTANT DOCTRINES, AND THE AMERICAN EXPERIENCE OF THE NINETEENTH CENTURY

Catholic doctrines about marriage and divorce have differed in important ways from their Protestant counterparts. Following Augustine’s lead, theologians of the Middle Ages regarded marriage as a sacrament, a channel through which—along with faith in Jesus—God granted the gift of salvation. Augustine emphasized Jesus’s decree that man cannot break apart what God has brought together through marriage. As a further barrier to the possibility of divorce, Augustine echoed the words of Paul in Romans 7:2–3, stating that only the death of one partner can dissolve the marital bond and thereby permit remarriage. Augustine drew on Paul’s other letters to proclaim that celibacy was spiritually superior to marriage, with matrimony a second-best alternative for those unable to control their sexual desires.¹⁹

Augustine’s intellectual legacy was profound, but his theological pronouncements could not single-handedly determine the social behavior of subsequent generations. During the Middle Ages, marriage practices varied considerably across different localities, with the Church normally playing little role in overseeing the creation of unions between men and women.²⁰ Over the next several centuries, the Church solidified its doctrines and gradually exerted control over marital formation. As part of a more general response to the Reformation, Catholics codified their accumulated doctrines about marriage in the Council of Trent (1545–1563). Among other requirements, marriages now officially needed to be performed by a priest and overseen by at least

¹⁷ Howlington, “Historic Attitude,” 222.

¹⁸ J. Cary Laney, “No Divorce & No Remarriage,” in H. Wayne House, ed., *Divorce and Remarriage: Four Christian Views* (Downers Grove, IL: Intervarsity Press, 1990), 15–54; William A. Heth and Gordon J. Wenham, *Jesus and Divorce: The Problem with the Evangelical Consensus* (Nashville, TN: Thomas Nelson Publishers, 1984).

¹⁹ Elizabeth A. Clark, ed., *St. Augustine on Marriage and Sexuality* (Washington, DC: The Catholic University of America, 1996).

²⁰ Stephanie Coontz, *Marriage, A History: How Love Conquered Marriage* (New York: Penguin Books, 2006), 105–107.

two witnesses to be valid. Most importantly for present purposes, canon law established at the Council of Trent reinforced traditional Catholic teachings that marriage was inviolable and therefore divorce was impossible. Annulments stating that a proper marriage had never existed could be granted in rare cases on highly specific grounds.²¹

The New Testament contains only a few passages about divorce, and so it has been possible to describe all of them in this paper. As we have already seen, however, determining the authoritative reading of the Christian scriptures is much more difficult than merely quoting them. As entire shelves could be filled with the articles and books that seek to provide a definitive interpretation of these passages, the glimpses offered here necessarily represent only a small sampling of the debates.²² Catholics and Protestants have differed, Protestants have argued amongst themselves, and many Catholics have called for reforms to their church's teachings. Because Protestants have always been far more numerous in the United States than Catholics, the various teachings of the Reformation's heirs have influenced American attitudes and laws to a greater degree than have the doctrines of Catholicism.

These Protestant teachings have clustered in four broad groups: forbidding divorce altogether, granting it only in cases of adultery, permitting it on grounds of adultery and desertion, and allowing divorce for reasons other than adultery and desertion. Benjamin Trumbull and Timothy Dwight fell into the second of these groups, and they lamented that divorces had been widely granted in Connecticut and other states for causes outside of adultery. To the dismay of people of Trumbull's and Dwight's persuasion, divorce laws in the United States became looser—not tighter—in the subsequent decades. After America gained its independence from England, Southern states (with the exception of South Carolina) began allowing divorce, with the legislature itself serving as the grantor. By the middle of the nineteenth century, most of those states had moved the increasing workload of divorce cases into specially designated courts. Meanwhile, in the Northern states, the list of permissible reasons for divorce generally expanded as the years passed.²³

For believers in lifetime marriage, the problems worsened as additional states joined the union with even more lenient laws. In 1824, shortly after passing from a territory to a state, Indiana added an omnibus clause to its laws whereby judges could grant divorces in cases where the litigants brought

²¹ Joseph Martos, "Catholic Marriage and Marital Dissolution in Medieval and Modern Times," in Pierre Hegy and Joseph Martos, eds., *Catholic Divorce: The Deception of Annulments* (New York: Continuum International Publishing Group, 2000), 127–153.

²² Craig S. Keener, *...And Marries Another: Divorce and Remarriage in the Teaching of the New Testament* (Peabody, MA: Hendrickson Publishers, Inc., 1991); Raymond F. Collins, *Divorce in the New Testament* (Collegeville, MN: The Liturgical Press, 1992); William F. Luck, *Divorce and Remarriage: Recovering the Biblical View* (San Francisco, CA: Harper & Row Publishers, 1987); Heth and Wenham, *Jesus and Divorce*; House, *Divorce and Remarriage*.

²³ Riley, *Divorce: An American Tradition*, 34–49.

“proper” grounds. Pioneered earlier in other states, this provision allowed individuals to push beyond the legislatively specified limits and plead their specific case to a judge. In 1852, the state repealed its residency requirements, replacing them with a stipulation that one must reside in the specified county at the time of filing. The combination of the omnibus clause with no residency requirement quickly brought Indiana condemnation in many quarters as a “divorce mill” servicing hordes of migratory couples from other states. Modern scholars doubt that the number of people who actually moved to Indiana in search of fast and easy divorce reached anywhere near the levels the fiercest critics imagined, but the state nevertheless became the first of many Western states to acquire such a reputation.²⁴

Christian advocates of the nineteenth century followed their forebears by publicly engaging the question of whether marriages could be dissolved and, if so, for what reasons. In the midst of a discussion within the New York legislature over easing the state’s divorce laws, *New York Tribune* editor Horace Greeley, who had helped found the Republican Party in the 1850s, denounced Indiana as “the paradise of free-lovers” that “enables men or women to get unmarried nearly at pleasure.”²⁵ Greeley viewed New York’s existing law as a perfect reflection of the Bible by authorizing divorce solely on grounds of adultery, but his desire that public policy be based on the Christian scriptures did not go unchallenged. His debating opponent, Henry James Sr., a lecturer and writer whose two sons would achieve greater fame, argued that laws should reflect only secular considerations. “Jesus Christ may be an excellent practical authority for your and my private conscience,” James wrote, “but in matters of legislation we are not in the habit of asking any other authority than the manifest public welfare.”²⁶

The pleas of Henry James Sr. notwithstanding, opponents of easy divorce began winning modest policy victories in the late nineteenth century. Several Western territories and states tightened their residency requirements to avoid either the appearance or the reality of serving as a magnet for couples seeking divorce. In 1878, Connecticut removed its omnibus clause that had given judges considerable discretion in granting divorces, and Maine followed suit in 1883. Other states, such as Vermont and Michigan, reformed their procedural requirements and limited the right to remarry.²⁷ The longstanding resistance to lenient divorce laws appeared to be finally gaining traction.

CHRISTIAN RESISTANCE TO DIVORCE LAWS

Galvanized by the rising incidence of divorce spurred by factors such as economic difficulties, geographic mobility, and changing gender roles, several

²⁴ *Ibid.*, 62–67.

²⁵ Horace Greeley, *Recollections of a Busy Life* (New York: J. B. Ford and Co., 1868), 571.

²⁶ Blake, *Road to Reno*, 84.

²⁷ *Ibid.*, 130–133.

Protestant denominations joined the movement to restrict laws and practices governing divorce. In 1880, the National Council of the Congregational Churches of the United States publicly urged its ministers and churches “to do what lies in their power to put an end to the present widespread and corrupting practice of divorce for causes which find no sanction in the word of God.” The Presbyterian Church in the United States took similar measures in 1883, stating that “the action of the civil courts, and the divorce laws in many of the states, are in direct contravention to the laws of God.”²⁸ The Southern Baptist Convention later added its voice to the movement by calling on state legislatures “to discourage this great and growing evil by more stringent laws.”²⁹

In 1887, Congress responded to the pressure from Protestant denominations by authorizing Commissioner of Labor Carroll D. Wright to conduct a comprehensive study of divorce in the United States. As the first systematic attempt to gather data from every state, Wright’s report calculated that the number of divorces rose by 157 percent over the 20-year period of its study, an increase far exceeding the population growth of 69 percent.³⁰ Wright’s follow-up study in 1908 estimated that divorce ended between 1 in 12 and 1 in 14 marriages, or about 7–8 percent, a figure that shocked and scandalized many of his contemporaries. States permitted divorce for many different reasons, the report documented, with desertion most often invoked by petitioners. Cruelty was the most rapidly growing reason, though, as judges were increasingly interpreting cruelty expansively to include verbal as well as physical abuse. On the basis of state-by-state comparisons, Wright concluded that the stringency of the laws directly affected the number of divorces granted. At the same time, he also recognized larger economic and social forces as important contributors to divorce.³¹

These two Wright reports served as the factual foundation on which Christian groups would build their case for reforming divorce laws. Realizing that separate efforts would be less effective than a united front, the General Convention of the Protestant Episcopal Church in 1901 passed a resolution calling for a new organization that would join together different denominations to create uniform practices, both within churches and in the broader society, on marriage and divorce.³² The resulting Interchurch Conference on Marriage and Divorce met in 1903 and soon expanded to include representatives from two dozen Protestant denominations. Besides addressing the thorny pastoral issues, such as how to handle instances in which a person divorces in one

²⁸ James P. Lichtenberger, *Divorce: A Study in Social Causation* (London: P. S. King & Son, 1909), 126, 136.

²⁹ Southern Baptist Convention, “Resolution on Divorce,” May 1904, accessed at www.sbc.net/resolutions/amResolution.asp?ID=441, 29 January 2008.

³⁰ “A Record of Broken Vows; Marriage Is Very Often a Failure,” *The New York Times*, 31 March 1889.

³¹ Blake, *Road to Reno*, 134–136; Riley, *Divorce: An American Tradition*, 79–81, 86–87.

³² Lichtenberger, *Divorce: A Study in Social Causation*, 123.

denomination and then tries to remarry in another, the Interchurch Conference brought additional political pressure for stricter divorce laws.³³

The political strategies of legislators, church leaders, and other reformers to limit the availability of divorce moved along two parallel tracks. If individual states enacted varying and often lenient laws, then one proposed solution was to convene a representative body where delegates from different jurisdictions could recommend a single national standard for states to adopt. Pennsylvania Governor Samuel Pennypacker took the lead in organizing such a body, which became known as the National Congress on Uniform Divorce Laws. Meeting in 1906, the National Congress attracted considerable media coverage and included delegates from all but five states. After a considerable amount of internal maneuvering, the delegates called on states to approve no more, and ideally fewer, than the six permissible grounds most common in state laws: adultery, bigamy, cruelty, desertion, habitual drunkenness, and a felony conviction. The National Congress also recommended several procedural reforms, along with legislation whereby states would refuse to recognize migratory divorces, which the delegates defined as divorces granted in any state other than the one in which the causes of the marital problems emerged. The practical obstacle to implementing these recommendations, as many observers of the time noted, was that states with lenient divorce laws were unlikely to enact reforms based simply on the advice of an interstate conference.³⁴

Fortunately for the divorce reformers, they could turn to a second approach of shifting authority over the issue from the state to the federal level. In congressional sessions beginning in 1884, members of the federal House of Representatives introduced a constitutional amendment to give Congress the power to regulate marriage and divorce. The amendment received a hearing in 1892, but a majority of the House Judiciary Committee voted against sending it to the floor for further action. Versions of the amendment continued to be introduced in Congress for several decades, and the underlying idea gained high-profile support when President Theodore Roosevelt endorsed it in 1906. Between 1911 and 1916, the legislatures of California, Illinois, New York, and Oregon all passed resolutions supporting the proposal. The constitutional amendment failed to advance in Congress, however, and achieved its last hurrah when a Senate committee held a hearing in 1924 to give its supporters and opponents a chance to voice their perspectives.³⁵

THE SOFTENING OF CHRISTIAN RESISTANCE TO DIVORCE

Even as divorce receded as a volatile political issue, Christian groups still faced its daily realities within individual congregations. With the underlying causes

³³ Blake, *Road to Reno*, 139–140.

³⁴ *Ibid.*, 141–145.

³⁵ *Ibid.*; Riley, *Divorce: An American Tradition*, 134.

affecting Christians and non-Christians alike, the national divorce rate reached nearly 20 percent by the 1920s as a rising wave of marital breakups moved over and around barriers built by religious institutions. Clergy could either change their standards on whether divorced people could be remarried within the church or risk alienating a growing part of their actual and prospective congregations. Protestant ministers recognized the quandary in which they found themselves, for couples that included a divorced partner proved ready and willing to leave one church for another willing to marry them.³⁶ Under that kind of competitive pressure, most Protestant denominations found ways to accommodate the larger societal trends.

The accommodations by Protestant denominations could be, and often were, justified by theological arguments that allowed a more flexible attitude toward divorce and remarriage. A new view held that the New Testament's passages on divorce established an ideal rather than an absolute command to be followed.³⁷ Evidence for this view came from several verses within the moral code that Jesus elaborated in his Sermon on the Mount. Jesus declares, for example, that anyone who gets angry will be liable to judgment just as if he committed murder, that people subjected to violence should offer the attacker the other cheek as well, and that people should gouge out their right eye if it causes them to sin. Needless to say, these rules are extremely difficult, in some instances impossible, for anyone to follow. Since Christians believe that everyone sins, for example, any attempt to adhere to the literal meaning of Jesus's words would lead to congregations comprised entirely of one-eyed people.

If the commands cannot be followed literally, then perhaps they are best interpreted as creating ideals to which people should aspire. By definition, no one can attain the ideals, but believers can use them to derive inspiration and motivation for their actions. This interpretation leads to clear implications for the subject of divorce, because within the Sermon on the Mount Jesus states that any man who divorces his wife, except for marital unfaithfulness, causes her and anyone she remarries to become adulterers. Since we cannot reasonably expect that people, under all circumstances, will refrain from anger, turn the other cheek, and gouge their eyes out, the reasoning goes, we cannot expect them to forego divorce when domestic violence, substance abuse, incompatible personalities, or other intractable problems have stripped all love and joy from a marriage.³⁸

A related biblical interpretation arrives at lifetime marriage as a normative ideal rather than a definitive command by focusing on the definitions of key

³⁶ M.C. Weersing, "The New Testament Statement Concerning Divorce and Re-Marriage: Especially as it Applies to Twentieth Century Church Polity." (MA diss, Columbia Theological Seminary, 1937–1938), 56–57.

³⁷ *Ibid.*, 44.

³⁸ Pierre Hegy, "Disputed Biblical Interpretations about Marriage and Divorce," in Hegy and Martos, eds., *Catholic Divorce*, 62–63.

words. If Jesus's statements are interpreted expansively, one can envision permissible grounds for divorce other than the traditional reasons of adultery and desertion. A commission of the Presbyterian Church of the U.S.A. took this stance in 1930 by defining infidelity broadly: "Anything that kills love and deals death to the spirit of the union is infidelity."³⁹ Although the commission did not specify the behavior that would constitute metaphorical infidelity equivalent to the more widely recognized sexual infidelity, reasoning of this sort provided the opening wedge to increasing the number of allowable justifications for divorce. A broad style of interpretation likewise might define desertion to include not only actual separation but also emotional or physical abuse whereby one spouse abandons the other in spirit if not in body. With one partner's actions undermining the core elements of a spiritual union, the other partner could be justified in requesting a divorce.⁴⁰

Another interpretive approach considers the original Jewish context of Jesus's words when assessing their applicability to the modern world. The dominant Jewish tradition of biblical times held that husbands could divorce their wives, but wives possessed no legal rights to terminate a marriage. In an age when Jewish men avoided marrying a divorced woman, and when women owned no property and could not easily find paid employment, divorce could doom a woman to poverty in perpetuity. By either prohibiting divorce altogether (as in Mark and Luke) or allowing it only for sexual immorality (as in Matthew), Jesus's decrees therefore ensured economic security for women. According to this contextual approach to interpretation, Jesus's doctrines on divorce are consistent with his larger message of protecting the poor, the downtrodden, and the outcasts of society.

The modern age, however, is characterized by a vastly different economic system, in which women are no longer economically dependent on men. Maintaining the principle behind Jesus's message—protecting the vulnerable in society—may therefore require different guidelines than those he advanced for his time. Some Christian writers have argued that greater openness to the possibility of divorce, at least in instances of genuine marital breakdown, serves Jesus's goal better than the hard-and-fast rules yielded by a plain reading of scripture. Greater awareness of and concern about domestic violence point to a similar need for a more flexible means of ending marriages.⁴¹

These reinterpretations of the proper Christian orientation toward divorce and remarriage have certainly not settled the matter for Protestant clergy and lay worshippers. Many theologians continue to insist that the Bible permits divorce only for the innocent partner in a case involving adultery or desertion.

³⁹ Jack Bartlett Rogers, *Jesus, the Bible, and Homosexuality: Explode the Myths, Heal the Church* (Louisville, KY: Westminster John Knox Press, 2006), 42.

⁴⁰ *Ibid.*, 42–43.

⁴¹ Kyle D. Fedler, *Exploring Christian Ethics: Biblical Foundations for Morality* (Louisville, KY: Westminster John Knox Press, 2006), 161–162.

For the purposes of this paper, the key point is that envisioning inviolable marriage as an ideal rather than a biblical command began to look attractive as churches faced immense challenges over the escalating numbers of families affected by divorce within their congregations. Even when the revised interpretations of the New Testament teaching were not expressed explicitly from a particular pulpit, their background presence in theological debate and discussion helped to give biblical sanction to church actions that accommodated divorce. Churches commonly changed their ways of handling divorce and remarriage without elaborating a specific biblical interpretation to guide them.

This liberalization of attitudes and practices can be seen clearly in the history of the Methodist Church. With the national movement to curtail the legality of divorce all but moribund by the 1920s, the Methodists' governing body passed resolutions stating that ministers could not remarry a divorced person unless he or she was the innocent party in an adultery case. In 1932, the exception was expanded to cover adultery "or other vicious conditions which through mental or physical cruelty or physical peril invalidated the marriage vow." The Methodists moderated their stance still further in 1960 to require merely that ministers counsel the parties and be convinced that a divorced person is aware of his or her previous failures and is committed to a Christian marriage for the future. Other Protestant denominations, such as the Presbyterian Church of the U.S.A., the United Lutheran Church of America, and the Protestant Episcopal Church, followed a similar pattern in gradually bestowing legitimacy on remarriage for divorced persons.⁴² Because Southern Baptists have long granted control over marriage to each local church, their national association never officially went on record supporting a more open stance toward divorce.⁴³ Based on the sizeable spike in divorce rates that affected Southern Baptists along with other denominations, however, it is clear that their ministers changed with the times as well.

Roman Catholicism offers a clear contrast to the Protestant attempts to confront the dilemma of divorce and remarriage. As the Protestant denominations were loosening their requirements, Catholic doctrine remained fixed and certain. The Catholic Church continues to prohibit remarriage for a divorced person whose former spouse still lives. Prior to 1977, American Catholic bishops threatened to excommunicate those who divorced and remarried outside the Church. While that doctrine no longer holds, the Church's canon law updated in 1983 still officially forbids such people from partaking in the Eucharist, an important exclusion given that the Eucharist is one of the sacraments through which Catholics receive God's grace.⁴⁴ At the same time, the Church grants what some consider a "backdoor" divorce and remarriage through annulments. Annulments can be granted only after a lengthy and expensive

⁴² Howlington, "Historic Attitude," 233–234; Blake, *Road to Reno*, 230–231.

⁴³ Howlington, "Historic Attitude," 203.

⁴⁴ Hegy, "Disputed Biblical Interpretations," 79.

process, however, and every year several times more Catholics remarry than obtain annulments.⁴⁵ In other words, many Catholics are doing precisely what the canon law prohibits: divorcing and remarrying outside the Church.

By the close of the twentieth century, the centuries-long trend toward weaker divorce laws had neared its natural limit. In 1966, New York, historically one of the most difficult states in which to obtain a divorce, began a new wave of reform by passing legislation to expand the permissible grounds beyond adultery to include cruelty, desertion, prison terms, and two years' separation. Three years later, California enacted the nation's first no-fault divorce law. Legislators hoped that no-fault divorce would end the legal acrimony, and the accompanying incentive for litigants to impugn the character and behavior of their partners, by allowing either spouse to petition for divorce without the consent of the other. The laws passed without much controversy and encountered little to no organized opposition. California's innovation gradually spread nationwide, and by 1985, all states had enacted some version of no-fault divorce, although some—like New York—imposed requirements like mutual consent and a separation period before the legal proceedings could begin.⁴⁶

Religious leaders of today often mistakenly believe that marital instability began with the passage of those laws.⁴⁷ According to this view, marriages used to last a lifetime. Then, under the sway of radicals who deemed marriage an oppressive and outmoded institution, state legislators decided to allow men and women to undo their vows for any reason whatsoever, thereby spreading divorce to all corners of American society. Its provocative name notwithstanding, no-fault divorce actually represented an evolutionary rather than a revolutionary change in the law. The stigma of divorce, which previously offered a powerful disincentive for marital breakup, steadily declined during American history as more and more couples dissolved their marriages. Moving in fits and starts, colonies and later states for over three hundred years had responded to the pressures placed on marriages by loosening the laws regulating divorce.

Even if one restricts attention only to the twentieth century, no-fault divorce simply formalized in theory what already existed in fact for most people. After legal interpretations for what counted as cruelty began to be interpreted expansively in most states, partners who wanted a divorce normally could obtain one. Under the old fault-based system, some 90 percent of the divorce petitions nationwide went uncontested because the other partner did not mount a challenge, and even in the contested cases, the rules could often be

⁴⁵ Pierre Hegy, "Catholic Divorce, Annulments, and Deception," in Hegy and Martos, eds., *Catholic Divorce*, 9–25.

⁴⁶ Herbert Jacob, *The Silent Revolution: The Transformation of Divorce Law in The United States* (Chicago, IL: University of Chicago Press, 1988).

⁴⁷ James Dobson, *Marriage Under Fire: Why We Must Win This War* (Sisters, OR: Multnomah Publishers, 2004), 37–38.

subverted through perjury or fraud.⁴⁸ With the enactment of no-fault provisions, laws caught up with social practices by minimizing the role of government and leaving the decision to divorce within the hands of each partner to a marriage. By signaling to families and churches that government would not force unwilling couples to remain together, no-fault laws symbolized the already-existing tolerance of divorce. Blaming today's high rate of divorce on no-fault laws misses the extent to which they were a reflection of, not just a contributor to, Americans' norms and practices regarding marriage.

Of course, no-fault laws could easily have caused the divorce rate, which had risen throughout American history, to become even higher. By comparing levels of divorce across states and taking into account the timing of various no-fault laws, some researchers have found evidence for precisely such an effect.⁴⁹ Still, any realistic explanation of why the frequency of divorce is so high in America must consider not only public policy but also the reasons why people want to get divorced in the first place—reasons beyond the control of state legislators. The restoration of fault-based divorce would not eliminate the economic, personal, and cultural forces that commonly push marriages to the breaking point. Under a fault-based system, many people would either find legal grounds to terminate their union or rely on the fact that their partners would be unlikely to challenge a petition for divorce.

THE FADING OF DIVORCE AS A POLITICAL ISSUE

Irrespective of the legal rules that govern the matter, one might have predicted that a high percentage of broken marriages in America would have kept divorce in the public eye as a divisive political issue. From the late 1700s to the early 1900s, acrimonious debates about its legality filled legislative halls and galvanized Christian groups. During the twentieth century, though, divorce ceased to motivate people into political action. To be sure, divorce continued to receive widespread attention within churches, families, advice columns, and self-help books, where people struggle to save troubled marriages and cope with those that fail. Yet after the last push for a constitutional amendment in the 1920s, divorce virtually vanished as a political matter in which people mobilize and argue about the proper course of public policy. Voters, journalists, and interest groups rarely press candidates for their stand on the issue, and once in office, legislators spend their time on other matters.

Perhaps part of the reason why divorce fell off the political agenda is that the middle of the twentieth century represented a historic lull in the political organization of religious groups. In particular, Christian evangelicals, who

⁴⁸ Mary Ann Glendon, *The Transformation of Family Law: State, Law, and Family in the United States and Western Europe* (Chicago, IL: University of Chicago Press, 1989), 188.

⁴⁹ James C. Garand, Pamela A. Monroe, and Denese Vlosky, "Do No Fault Divorce Laws Increase Divorce Rates in the American States?" (paper presented at the 1998 annual meeting of the American Political Science Association, Boston, MA).

potentially could use the words of the Bible to demand stricter divorce laws, were remarkably unorganized. After the Scopes Monkey Trial of 1925, evangelicals largely retreated from politics and focused on redeeming society one soul at a time, outside the glare of public scrutiny. Their absence from politics obviously changed in the 1970s and 1980s. Since then, evangelicals have built and employed the organizational capacity to articulate political stances derived from their religious views.

Rev. Jerry Falwell helped jump-start the Christian right by co-founding the Moral Majority in 1979. With his background as a television evangelist and a Baptist minister who attracted a large following to his Virginia church, Falwell possessed strong managerial and rhetorical skills that helped him turn the germ of an idea into a powerful national organization. Based on its size and influence, the Moral Majority quickly assumed the mantle of leadership for the larger movement of Christian conservatives. Falwell himself penned the organization's mission statement, and the third item on his list of principles declared: "We are pro-traditional family."⁵⁰ Defending the traditional family was an important part of the public image of the Moral Majority, and the mission statement ensured that this goal would remain front and center for its staff, members, and supporters.

Like any lobbying group, the Moral Majority had to decide how to translate the general principles in its mission statement into specific positions on political issues. One might suspect that being "pro-traditional family" would have led the Moral Majority to take a strong stand against the easy availability of divorce. After all, it is difficult to identify a greater threat to the traditional family than breaking it apart through divorce. During the 10 years of its existence, Falwell's organization mobilized and lobbied on many political issues, including abortion, pornography, gay rights, school prayer, the Equal Rights Amendment, and sex education in schools. Divorce failed to achieve that exalted status, ranking so low on the group's agenda that books on the Moral Majority do not even give the issue an entry in the index.⁵¹ In the 1980 presidential election, the Moral Majority used voter registration drives to promote the candidacy of Ronald Reagan, himself a divorced and remarried man who had signed the nation's first no-fault divorce law as governor of California in 1969. One could hardly imagine a stronger signal that the issue of divorce would not receive the Moral Majority's attention.

After the Moral Majority disbanded, leadership of the Christian right passed to other organizations. Building on the energy and donor list of Rev. Pat Robertson's presidential campaign of 1988, the Christian Coalition burst into the spotlight the next year and represented the movement's most prominent

⁵⁰ David Snowball, *Continuity and Change in the Rhetoric of the Moral Majority* (New York: Praeger, 1991), 16.

⁵¹ Ibid.; John Kater Jr., *Christians on the Right: The Moral Majority in Perspective* (New York: Seabury Press, 1982).

interest group in the 1990s. One of the group's early fundraising letters explained that it sought to outlaw abortion, restore school prayer, protect religious displays on public property, and resist messages and programs in the entertainment media that "defame our Lord."⁵² With the addition of other issues like homosexuality, school choice, religious freedom, Darwinism and evolution, American support for Israel, and funding for the National Endowment for the Arts, the Christian Coalition energetically pursued the agenda for which Christian conservatives are known.⁵³ The subject of divorce was noticeably absent from the list of issues on which the group spent large amounts of time.

The Christian Coalition's success in attracting funding and publicity could be traced in part to its telegenic and articulate executive director, Ralph Reed. At the height of his influence, Reed penned a bestselling book, *Active Faith*, that discussed historical issues like temperance and slavery as well as the contemporary controversies that motivated Christians to take political action. Although he cited high rates of divorce as a sign of moral decay, nowhere in the book did he advocate legislation to tighten divorce laws.⁵⁴ Interestingly, the Christian Coalition did finally elevate divorce to its political agenda in 1997 when it announced the Samaritan Project, an effort to address concerns of blacks and Hispanics in the nation's urban centers.⁵⁵ The accompanying legislative proposals included a modest requirement that married couples with young children pass through a waiting period before obtaining a divorce. The Christian Coalition severely curtailed funding for the Samaritan Project later in 1997 amidst the group's financial troubles, and the initiative did not change public perceptions of the Christian Coalition's issue priorities and emphases.⁵⁶ When the entire record is considered, from its founding to its virtual collapse in the late 1990s, the Christian Coalition devoted little attention to promoting stricter regulations on divorce. The group spent the vast majority of its time on the traditional issues that characterize lobbying activity within the Christian right.

In recent years, the Family Research Council (FRC) has attained the visibility previously reached by groups like the Moral Majority and the Christian Coalition. Founded by Dr. James Dobson in 1983, the FRC was institutionally located within Dobson's Focus on the Family before splitting off as a separate group in 1992. Its three-sentence mission statement declares: "The Family Research Council (FRC) champions marriage and family as the foundation of civilization, the seedbed of virtue, and the wellspring of society. FRC shapes public debate and formulates public policy that values human life and upholds

⁵² "Pat Robertson is Back," *St. Petersburg Times*, 26 May 1990.

⁵³ Justin Watson, *The Christian Coalition: Dreams of Restoration, Demands for Recognition* (New York: St. Martin's Press, 1997).

⁵⁴ Ralph Reed, *Active Faith: How Christians are Changing the Soul of American Politics* (New York: The Free Press, 1996), 5, 42.

⁵⁵ Katharine Q. Seelye, "Christian Coalition Plans Inner-City Program," *The New York Times*, 31 January 1997.

⁵⁶ Watson, *Christian Coalition*, 189.

the institutions of marriage and the family. Believing that God is the author of life, liberty, and the family, FRC promotes the Judeo-Christian worldview as the basis for a just, free, and stable society.” Among the five “Core Principles” that direct the FRC’s operations, the third reads: “Government has a duty to promote and protect marriage and family in law and public policy.”⁵⁷

Some observers might expect that government’s “duty to promote and protect marriage and family” would include closely regulating divorce. Judging from the materials it produces and makes available to members, supporters, the media, elected officials, and civil servants, however, the FRC appears to hold a somewhat different conception of the government’s duty in regard to marriage and the family. Some critics have chastised the FRC and related groups for concentrating their marriage agenda on preventing same-sex marriage rather than limiting heterosexual divorce.⁵⁸ In an age where matrimonial vows are later discarded nearly half of the time, the criticism goes, how will letting gays and lesbians into the club destroy the institution of marriage? For a group that defines its existence around marriage and the family, would it not be better to address the massive numbers of heterosexuals ending their marriages rather than the same-sex couples wanting to tie the knot?

Beginning on 30 August 2004, the FRC used its Web site to present its standard response to this question. The text of the answer is worth repeating in its entirety:

Divorce causes tremendous devastation to families, children, and society. The issue of divorce reform has been an issue that FRC has dealt with since we began in 1983. We have consistently called for the repeal of no-fault divorce laws in all 50 states. We continue to promote the sanctity of marriage, and we will not relent in our insistence to reform divorce laws. Yet, the issue of divorce reform at the political level has struggled to receive much attention.

Currently, FRC is faced with protecting marriage from being “redefined” so as not to include more than “just” one man and one woman, and this is what we must deal with at the present time. With our limited resources and staff number and considering the fact that our nation is seriously threatened by the legalization of same-sex “marriage,” this is our current priority when it comes to public policy about marriage.

We do, however, have a booklet that may be of interest to you, called “Deterring Divorce.” (The link is provided below.)

There are also organizations outside the public policy arena that focus on strengthening marriages, such as Focus on the Family (www.family.org), Marriage Savers (<http://www.marriagesavers.org/>), and The Coalition for Marriage, Family, and Couples Education, L.L.C. (www.smartmarriages.com).⁵⁹

⁵⁷ Family Research Council, “Core Principles,” accessed at http://www.frc.org/get.cfm?c=ABOUT_FRC, 30 December 2007.

⁵⁸ Randall Balmer, *Thy Kingdom Come: How the Religious Right Distorts the Faith and Threatens America, An Evangelical’s Lament* (New York: Basic Books, 2006).

⁵⁹ Family Research Council, “F.A.Q.,” accessed at <http://www.frc.org/get.cfm?i=FQ04H47>, 30 December 2007.

The text above contains four main points: first, the FRC supports divorce reform, but second, the issue has failed to command national attention; third, the FRC's limited resources and staff dictate that divorce must take a lower priority than the fight against same-sex marriage, and fourth, people interested in strengthening marriages can avail themselves of information and initiatives from outside the public policy arena. Each of these points is worth examining in detail, and I will return to the second and fourth later in the article. For now, I focus on the first and third parts, in which the FRC explains that it supports divorce reform yet judges it less important than opposing marriage benefits for homosexuals. The need to decide the issues upon which to concentrate is not unique to the FRC, for everyone involved in politics, whether as individuals or organizations, must assess their available resources and identify priorities—a process which necessarily means that some issues will receive more attention than others. Determining priorities does not mean, however, that a political group must focus on one matter to the virtual exclusion of another.

The FRC regularly sends email alerts to its members and supporters in an attempt to inform, persuade, and reinforce their attitudes and beliefs about matters of interest to the group. In 2006 and 2007, the FRC dispatched hundreds of these, most of which contained three paragraph-length items. Surprisingly for an organization that structures its activities around marriage and the family, only 8 of the 1,366 items centered on divorce. In the context of its total volume of communication with members and supporters, the FRC rarely broached the topic of divorce. The organization has stated that “we will not relent in our insistence to reform divorce laws,” but that abstract support has not been matched by a sustained commitment to spending time or resources on the issue.

Perhaps the FRC's emails do not accurately reflect its priorities, meaning that analyzing a different facet of the group's activities would yield a different answer. Accordingly, it will be useful to examine the messages the FRC expresses when it broadcasts its views through the mass media. As part of a larger strategy to influence both the mass public and political leaders, the FRC's staff regularly write editorials and attempt to publish them in leading news outlets. During 2006 and 2007, the staff succeeded in placing editorials on topics falling within the organization's mission, including abstinence programs in schools, gay rights and hate crimes, abortion laws in the states, and judicial activism regarding online pornography. Yet FRC staff also published editorials that criticized wasteful government spending, warned against universal health care, and challenged the science behind global warming. Certainly no one could deny that government spending, health care, and global warming are important subjects for American citizens and political leaders to consider. For an organization whose self-definition holds that it “champions marriage and the family,” however, these issues are considerably removed from its core mission.

The FRC has stated that constraints of budget, time, and staff prevent it from engaging questions surrounding same-sex marriage and heterosexual

divorce at the same time, but it managed to allocate its scarce resources to addressing many other issues of current interest. Even if one could justify on practical or biblical grounds prioritizing gay marriage over divorce, such a view could hardly justify pushing divorce all the way to the bottom of the pecking order, below issues with only a tenuous connection to marriage and the family. Of course, a comprehensive search of all of the FRC's communications with members, the media, and government officials from 1983 to the present would probably uncover sporadic advocacy for changing public policy regarding divorce. Such a finding would not undermine the conclusion drawn here, namely that the subject occupies a low spot on the group's priority list. Indeed, in the statement from its Web site quoted above, the FRC conceded that it spends little time on divorce.

THE MODERN AMERICAN VIEW OF DIVORCE

Limited resources and staff time, then, cannot explain why the FRC, along with its predecessors, such as the Moral Majority and the Christian Coalition, devotes so little attention to reforming divorce laws. If one appeals to the Bible for assistance in developing political positions, this omission seems difficult to understand. In earlier times, many Christians believed that they should resist and repeal laws that did not conform to the Bible's prescriptions on divorce and remarriage. Placed in the context of modern American attitudes and practices, however, the FRC's priorities (and lack thereof) can be readily explained. Contrary to the perceptions prevailing in some quarters, divorce did not suddenly appear on the scene as individualistic Americans of the 1960s abandoned their family obligations and then, through no-fault divorce, selfishly ended marriages that no longer served their needs. As historians have shown, Americans' current beliefs and behaviors developed over time and reflect long processes that evolved across Western history.

For most of Western history, marriage was not viewed as a personal matter best left to the free choices of the parties directly involved. Instead, marriage reflected and cemented social, economic, and political relationships between families. In an important sense, marriage occurred between families rather than individuals, especially when dowries were given. With parents and family members helping to find suitable partners for children who reached the proper age for marriage, social stability could be preserved and property could be passed to descendants in an orderly manner. Beginning in the Enlightenment, influential writers and thinkers began articulating a new vision of marriage whereby men and women, guided by mutual affection and companionship, made their matrimonial vows entirely of their own free accord. With its emphasis on reason, individual rights, and the pursuit of happiness, the Enlightenment placed love at the center of the marriage ideal.⁶⁰

⁶⁰ Coontz, *Marriage, A History*.

This modern view of marriage brought the potential for greater happiness in the instances in which, as the cliché goes, the partners found their soul mates. The earlier marriages entered into mainly for economic reasons generally kept both parties' expectations low from the outset. Although love could develop after the couple exchanged vows, it did not form a necessary condition for the marriage to survive. Marriages endured so long as the dependence of men and women on each other, combined with the ties between extended families, remained in place. Once people were granted free choice for entering marriage, however, it became hard to deny them any possibility of exiting it. Love, being fickle, proved a volatile basis on which to rest matrimonial vows.⁶¹

The Enlightenment ideal of marriage, now hundreds of years old, gradually moved from inspiring intellectuals like John Stuart Mill and Mary Wollstonecraft into defining the aspirations of ordinary men and women. The biggest change in twentieth-century America, then, was not cultural norms about marriage but rather people's capacity to act upon them. Most importantly, the entry of more women into the paid labor force reduced and, in some cases, ended their need for men's wages to survive. This new economic freedom allowed them to dissolve marriages under matrimonial conditions that their grandmothers would have silently endured. The spread of labor-saving devices and the ability to buy services on the open market made divorce easier on men, too, compared to earlier decades and centuries.⁶²

RELIGIOUS ORIENTATION AND DIVORCE RATES

In recent American history, religious orientations have played only a minor role in tempering these trends. Using the complete set of data from the General Social Survey (GSS) 1973–2006, I have calculated the incidence of divorce for the denominational groupings defined by Brian Steensland and colleagues.⁶³ One clear advantage to pooling the different GSS surveys is that the data thereby yield sufficiently large sample sizes for seven different religious traditions. An estimate of the divorce rate for each group is calculated by dividing the number of people who have ever been divorced by the number of people who have ever been married. Overall, for the nation as a whole, the GSS data indicate a divorce rate of 38 percent. This figure falls below the commonly quoted national averages because some of the people in the GSS data who are currently married will eventually get divorced. In other words, the lifetime incidence of divorce for people surveyed from 1973 to 2006 will necessarily be higher than 38 percent.

⁶¹ Coontz, *Marriage, A History*; Lawrence Stone, *Road to Divorce: England, 1530–1987* (Oxford: Oxford University Press, 1990).

⁶² Coontz, *Marriage, A History*.

⁶³ Brian Steensland, Jerry Z. Park, Mark D. Regnerus, Lynn D. Robinson, W. Bradford Wilcox, and Robert D. Woodberry, "The Measure of American Religion: Toward Improving the State of the Art," *Social Forces* 79 (September 2000): 291–318.

TABLE 1
Divorce Rates for Major Religious Traditions in America, 1973–2006

<i>Group</i>	<i>Rate (%)</i>
Evangelical Protestants	43
Mainline Protestants	38
Black Protestants	43
Catholics	30
Jews	32
Other religions	37
Non-affiliated/no religion	45
National average	38

Source: Calculated by the author based on data from the General Social Survey, 1973–2006. The divorce rate for each group is calculated by dividing the number of people who have ever been divorced by the number of people who have ever been married.

Table 1 shows that Catholics, at 30 percent, have the lowest divorce rate among the seven major religious traditions. Jews are the second least likely group to divorce, with 32 percent of them ending their marriages. In contrast, those unaffiliated with any organized religion claim the highest divorce rate, 45 percent. Mainline Protestants fall squarely at the national average of 38 percent. It might seem logical that evangelical Protestants, who hold theologically conservative views on a variety of religious matters, would divorce at lower rates than other Americans. However, their divorce rate of 43 percent—identical with that of black Protestants—is actually higher than the national average.

The prevalence of marital breakup in America makes it unlikely that divorce will become the subject of political controversy in the near future. For the last several decades, the United States has experienced intense cultural conflict over issues such as abortion, homosexuality, stem cell research, teaching evolution in schools, and the role of religion in public life. Despite the high levels of conflict over divorce in earlier periods of American history, it now stands far removed from the most-divisive issues. Disagreements over divorce thus represent what could be called the “missing” culture war. At first glance, divorce bears all the characteristics of a classic issue within the culture war: it involves personal morality, undermines traditional definitions of the family, and receives condemnation from both Jesus and Paul. Thus, its absence from the collection of issues commonly labeled the “culture war” is noteworthy.

Nothing prevents the FRC and other groups that represent evangelicals in the political arena from actively working to limit the availability of divorce, meaning that the FRC would move beyond just *saying* that they endorse divorce reform and actually turn that abstract support into concrete action. Divorce reform need not occupy top billing in their agenda to qualify as a major priority, but it would need to receive sustained attention in their communications with members, outreach through the media, and lobbying of government officials. With the levels of marital breakup among evangelicals similar to those of the rest of the country, though, the FRC is unlikely to undertake such

an effort anytime in the near future. Needless to say, it is not a winning strategy for mobilization to tell your potential constituents that they have committed immoral acts that you are attempting to restrict through governmental regulations. Without an organized and vocal constituency making positions on divorce a litmus test for political support, it is difficult to imagine how the issue could join the ongoing culture war.

At the same time, the absence of divorce from the culture war does not mean that Christian conservatives express indifference toward divorce. To the contrary, many of their most respected leaders take the subject seriously and attribute a variety of social problems to the instability of marriages.⁶⁴ With the exception of scattered lobbying efforts by the Moral Majority, the Christian Coalition, and the FRC, however, leading organizations representing Christian conservatives have treated divorce as a private matter to be handled by individuals, families, and churches rather than a political question requiring legislative, executive, or judicial action. This distinction between private and political responses to divorce appears starkly in the history of Promise Keepers, a Christian men's organization that flourished in the 1990s. Best known for their stadium-packing rallies, Promise Keepers offered a means for men to affirm publicly their commitments to God, each other, and their churches, children, and wives.

Promise Keepers defines itself as "a Christ-centered organization dedicated to introducing men to Jesus Christ as their Savior and Lord, and then helping them to grow as Christians."⁶⁵ The mission of Promise Keepers is, accordingly, broader than just marriage and family but nevertheless includes those matters within a comprehensive set of principles intended to guide the thoughts and actions of Christian men. As stated explicitly in the fourth among the organization's seven promises, "A Promise Keeper is committed to building strong marriages and families through love, protection and biblical values."⁶⁶ The messages and events of Promise Keepers found a receptive audience in the 1990s as hundreds of thousands of men attended the group's rallies across the country. The success of Promise Keepers points to a sizeable population of men willing to pledge support of long-lasting marriages as one crucial part of a man's call to Christ.

After several years of sustained growth, however, Promise Keepers encountered serious financial difficulties in 1998. In the ensuing years, the organization endured massive staff layoffs and saw attendance at its trademark rallies decline precipitously.⁶⁷ During the first decade of the twenty-first century, Promise Keepers continued to exist, albeit within a more modest organizational

⁶⁴ See, for example, Dobson, *Marriage under Fire*, 54.

⁶⁵ Accessed at <http://www.promisekeepers.org/about/pkcorevalues>, 5 March 2009.

⁶⁶ *Ibid.*

⁶⁷ John P. Bartowski, *The Promise Keepers: Servants, Soldiers, and Godly Men* (Piscataway, NJ: Rutgers University Press, 2004).

structure than the group built in the 1990s. For the purposes of this paper, the key point is that even during its heyday, Promises Keepers represented a private rather than a political response to divorce. In a manner different from what would be expected of a political interest group, Promise Keepers did not attempt to mobilize men who would lobby state legislators to pass laws making it more difficult to obtain a divorce. The group's approach was instead entirely voluntary and individualistic, centering around the personal commitments made by each Christian man.

COVENANT MARRIAGE AS A RESPONSE TO DIVORCE

As a prominent example of a modest policy reform that seemed to conform to the boundaries of public acceptability, a new initiative in the late 1990s called "covenant marriage" offered couples the option of agreeing before the marriage begins that they can only end it for a specified set of reasons. Laws authorizing covenant marriage establish a process through which couples can voluntarily sign an affidavit pledging their intention of a lifetime marriage. They agree to seek counseling before contemplating divorce and, should their attempt at reconciliation fail, that a fault-based system will govern any marital dissolution. Covenant marriage also includes pre-marital counseling in striving to solidify a lasting commitment from both partners.

Louisiana enacted the nation's first covenant marriage law in 1997, followed quickly by Arizona in 1998 and Arkansas in 2001. The three states differ somewhat on the grounds for which couples choosing to enter the new marital arrangement can later request a divorce. Louisiana's law resembles the common practice in many states prior to the 1960s in allowing individuals to file for divorce on charges of their partner's adultery, desertion, felony conviction, and physical or sexual abuse of the petitioner or children. Arizona's provisions are looser in allowing for additional grounds as well as a severing of the marriage through mutual consent, while Arkansas's law is stricter than Louisiana's in requiring a longer separation period before the marriage can be terminated.⁶⁸ With its passage in these states, covenant marriage appeared for a time to be a realistic response to divorce that might attract widespread support from families, churches, and politicians.

Despite the best intentions of the reformers, covenant marriage failed to alter America's approach to marriage and divorce. After achieving an initial set of policy innovations in three states, the movement for covenant marriage stalled. Legislators around the country introduced bills to establish the option, but no states since Arkansas have enacted it into law. Opponents marshalled counterarguments at every stage, including claims that covenant marriage

⁶⁸ Katherine Shaw Spacht, "The Modern American Covenant Marriage Movement: Its Origins and Its Future," in John Witte and Eliza Ellison, eds., *Covenant Marriage in Comparative Perspective* (Grand Rapids, MI: William B. Eerdmans Publishing Company, 2005), 239–264.

inappropriately added a religious dimension to marriage, trapped idealistic young couples into marriages that could later turn dysfunctional, and failed to adequately protect women from domestic violence. Some of these claims could easily be refuted; in Louisiana, for example, a wife facing physical or sexual abuse can actually end her marriage faster under a covenant marriage than a traditional marriage.⁶⁹ Still, the strong opposition that covenant marriage faced shows that restricting the options for divorce, even when voluntarily agreed upon in advance by the parties, strikes many Americans as an unwarranted intrusion of government into private lives.

A second and perhaps more fundamental reason why covenant marriage failed to provide a long-awaited solution to divorce is that prospective couples expressed much less enthusiasm for the choice than its backers expected. The proportion of couples agreeing to a covenant marriage has been regularly estimated at 1–3 percent, a figure too low to shift the overall population in the direction of marital stability.⁷⁰ The effects on rates of divorce might be even smaller than these figures suggest if covenant marriage disproportionately attracts the people least likely to divorce in the first place. Complementing and reinforcing the decisions by individuals to bypass covenant marriage, very few churches have required it for couples who marry within the church's confines.⁷¹ In the absence of a strong push from churches, covenant marriage is unlikely to transform domestic relations for society at large.

The limited participation by churches in covenant marriage sheds additional light on the reasons why divorce reform has failed to gain much political traction. From the Moral Majority in the 1980s to the FRC in the 2000s, interest groups representing evangelicals have ranked divorce very low among their political priorities. The plot thickens when one considers that the Louisiana legislator who authored the nation's first covenant marriage bill, Tony Perkins, later became the executive director of the FRC in 2003. Because Perkins has established his credibility on the subject of divorce, the relative silence of his organization on the matter cannot be attributed to an absence of caring on the part of its leadership. The FRC's priorities instead appear to reflect straightforward political calculations. With divorce reform lacking strong support from any major constituency in America, including the FRC's, the group has chosen to allocate its time and resources elsewhere while referring interested parties to initiatives by private organizations and state and local governments to promote strong marriages.

⁶⁹ Katherin Shaw Spacht, "Why Covenant Marriage May Prove Responsive to the Culture of Divorce," in Alan J. Hawkins, Lynn D. Wardle, and David Orgon Coolidge, eds., *Revitalizing the Institution of Marriage for the Twenty-First Century: An Agenda for Strengthening Marriage* (New York: Prager, 2002), 59–67.

⁷⁰ Katherine Brown Rosier and Scott L. Feld, "Covenant Marriage: A New Alternative for Traditional Families," *Journal of Comparative Family Studies* (Summer 2000): 385–394.

⁷¹ Spacht, "The Modern American Covenant Marriage Movement," 245.

These marriage promotion efforts received a boost in funding during President George W. Bush's second administration. Bush's "Healthy Marriage Initiative" included funding research and demonstration projects, using federal programs for marriage education, and providing related grants to state and local governments. In constructing this policy, Bush operated under the same constraints as the FRC, and it is noteworthy that his Healthy Marriage Initiative did not seek to limit in any way the availability of divorce. Instead, his program focused on marriage education and research in attempting to persuade individuals, on their own accord, to commit to and remain within a stable, long-term marriage. By supporting the institution of marriage without curtailing people's options for divorce, Bush kept his policy within the bounds of public acceptability.

CONCLUSION

While the plain words of the Bible could provide adequate rhetorical ammunition for Christians generally and evangelicals specifically to fight for legislation to restrict divorce, culture has ultimately trumped scripture in shaping public policy. More precisely, culture has influenced how the Bible is interpreted and used in politics—or, in this case, not used. Christians in America today do not interpret the seemingly strict rules on divorce advanced by Jesus and Paul to be binding on married couples or obligatory for deriving a person's political positions on the subject. Earlier generations of Christians used the Bible to develop a political stance of limiting the availability of divorce, but they abandoned those efforts by the early part of the twentieth century. Because Americans' attitudes, beliefs, and behaviors can no longer sustain a political struggle against divorce, the subject rarely gains a foothold on the policy agenda.

No doubt some political elites like Tony Perkins would like to make divorce a prominent political issue, but they cannot take vigorous action without jeopardizing support from their constituencies—a point which has broader relevance for the culture war. Scholarly understandings of the culture war have sometimes gone astray by assuming a strict separation between elites and masses. In reality, both elites and masses are necessary to create and sustain the clamor of the culture war. Elites, for their part, crystallize the controversies and construct messages and appeals, and mass publics then respond favorably and offer their support, financial and otherwise. Although activists lead the battles of the culture war, their offensives would be stillborn if they had no army backing them. Of course, the army need not constitute a majority of the American population, for political movements can succeed by mobilizing a passionate minority. Elites whose advocacy fails to resonate with a majority or minority constituency can be easily dismissed as cranks, whereas those who attract such a following can build powerful lobbying organizations that influence elections and affect legislative enactments.

Given the virtually unlimited ways that Christian beliefs could inform a person's political views, interest groups representing the Christian right can choose from a wide range of potential issues on which to lobby. The standard subjects that have occupied their lobbying attention, such as abortion, gay rights, school choice, Darwinism and evolution, and religious displays on public property, have stood the test of time. Organizational positions and advocacy on those issues have attracted a mass constituency willing to pay dues, attend protests and rallies, and express their beliefs to government officials. Divorce is a different matter altogether. From the Moral Majority to the Christian Coalition to the FRC, organizations representing the Christian right have trod lightly on the subject of divorce. These groups have occasionally raised the issue, but have never made it a prominent part of their political agenda. Their leaders seem to recognize how much a strong push to limit divorce would alienate their own members and supporters. For this reason, the status of divorce as missing in the culture war does not appear likely to change anytime soon.