

# “Her husband went away some time ago”: marriage breakdown in Presbyterian Ulster, c. 1690-1830

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*‘A wife waits on a stormy night for the return of her husband’.*

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## Introduction

In May 1703, the Kirk-Session of Carnmoney, county Antrim, summoned Mary Cunningham to appear before them after a report was spread that her husband, Thomas Hamilton, ‘went away sometime agoe’ with a woman named Agnes.<sup>1</sup> Mary confirmed the truth of the report and in response to the Session’s questioning ‘what on her part’ had ‘provoke[d] him to leave’, she ‘declar’d she gave him none but study’d to carry as a dutifull wife’.<sup>2</sup> Mary emphasised that the separation was not her decision, adding that she was ‘jealous’ of Thomas and ‘that woman’ and ‘she was both grieved for her family and angry at him’ for his actions.<sup>3</sup> The following month, Thomas and Agnes appeared before the Session and acknowledged living together in adultery.<sup>4</sup> Both were deemed censurable for their offence and were ordered to appear before the congregation and undergo public discipline. The pair were also instructed to end their relationship.<sup>5</sup> A note made by the Session in September 1703 indicated that they had separated as Agnes had given birth to a child and was living in her father’s house. Thomas, who was described at this point as a ‘poor contemptible soldier’ with ‘no place of constant abode’ was denied the privilege of presenting the child for baptism – this benefit instead being awarded to Agnes ‘who would better see to the child’.<sup>6</sup> It is unclear whether Mary Cunningham was ever reunited with her errant husband.

Cases such as this offer a tantalising glimpse into how marital breakdown was experienced and achieved by the lower ranks in eighteenth- and nineteenth-century Ireland. Although divorce was not formally available to the large majority of Irish society until 1996, it is well established that women and men in Ireland made their own informal agreements to dissolve unworkable marriages. As in the case of Mary Cunningham

and Thomas Hamilton, spouses who were unhappy had the option of simply leaving the marital home, and some did so with the intention of forming a new relationship. That this was common in Ireland is indicated by the phrase “Divorce Irish Style”, which referred to the practice of dissolving relationships through either desertion or mutual separation.<sup>7</sup> Indeed, this practice was apparently so prevalent in modern Ireland that it has been described by David Fitzpatrick as ‘ubiquitous’.<sup>8</sup>

Save some notable exceptions, much more is known about marital breakdown in Ireland following the mid-nineteenth century, than in the period preceding it.<sup>9</sup> This can partly be explained by the fact that this period coincided with major legislative changes to the breaking of marriage – notably, the 1857 Divorce and Matrimonial Causes Act. This piece of legislation transformed divorce in England and Wales by transferring the legal process from parliament to a court-based system. In doing so, it brought divorce more into line with the Scottish provision.<sup>10</sup> Ireland, however, was excluded from this legislation. Divorce continued to be under the remit of the Irish parliament and was restricted to those with wealth and privilege. Given that the costs of securing a parliamentary divorce could reach up to £5,000, it is unsurprising that this method of marital dissolution was out of reach of most.<sup>11</sup> That only eleven private divorce acts were passed by the Irish parliament between 1730 and 1800 further underscores this point.<sup>12</sup> Moreover, access to formal divorce was gendered and weighted heavily in favour of men. Whereas adultery alone was sufficient cause for men to divorce their wives, women had to prove that their husbands had committed additional offences, such as bigamy, rape or other ‘unnatural’ practices.<sup>13</sup>

Consequently, much historical attention has been devoted to exploring how and why the Irish system deviated

from that followed elsewhere in Britain. Diane Urquhart's work has led the way in this respect, demonstrating how Ireland's retention of parliamentary divorce at the end of the nineteenth-century was unique in the wider context of the British Empire.<sup>14</sup> Indeed, Ireland would not fall into line with the rest of the United Kingdom until later in the twentieth century. Whereas Northern Ireland moved from the parliamentary to the court-based system in 1939, the Irish Free State operated without a mechanism for processing parliamentary divorce and passed a constitutional ban upon it in 1937. Divorce was not legally recognised in the Republic of Ireland until 1996.<sup>15</sup>

The modern period is also much better studied because the source material is both more plentiful and accessible. Until its disestablishment in 1869, the Anglican ecclesiastical courts were the first port of call for matrimonial suits in Ireland. These courts intervened in disputes between spouses, considered requests for separation and determined the validity of marriages.<sup>16</sup> It is therefore regrettable that the records of these courts are not extant, having been largely destroyed during the Irish civil war. Surviving fragments tease at the richness of the material, with cases involving divorce on the grounds of impotency, as well as allegations of domestic violence, adultery and abuse.<sup>17</sup> As Mary O'Dowd has noted, the loss of such archival material 'means that the writing of Irish social history will always have its limitations'.<sup>18</sup> There are, however, other sources that can shed light on marital breakdown for this period in Ireland's history: Presbyterian church court records. These sources are largely overlooked and underused by Irish historians on account of their (assumed) differences from the wider Irish (Catholic) population at large. As I have demonstrated elsewhere, Irish Presbyterian sources tell us something new about many aspects of the Irish family, including courtship, sex, marriage, childbirth, and the law.<sup>19</sup> Drawing on the minutes kept by the Irish Presbyterian church courts, this article will explore how women and men in Presbyterian Ulster negotiated the dissolution of their marriages. In doing so, it will demonstrate the rich contribution that their study can make to our knowledge of the breaking (and remaking) of marriage in Ireland.

## Sources: Irish Presbyterian church courts

Presbyterianism arrived in Ireland in the seventeenth century, brought over by Scottish settlers. Sustained waves of migration thereafter helped to create a Presbyterian stronghold in the north-eastern counties of the island. Over the course of the following century, the province of Ulster emerged as an area of dense Presbyterian settlement.<sup>20</sup> Indeed, while Presbyterians were a minority in Ireland as a whole, accounting for around eight per cent of the entire population in 1835, they outnumbered both their Anglican and Roman Catholic counterparts in the province of Ulster.<sup>21</sup> Following the example of its parent church in Scotland, the social, religious and cultural life of the Irish Presbyterian community was underpinned by a series of three church courts. These courts were hierarchical in their arrangement and, in ascending order of power, consisted of the Kirk-Session, the Presbytery, and the Synod. At the meetings of these courts, a clerk was appointed to keep a record of proceedings. While minute books do not survive for every congregation in Ireland, those that do afford a remarkable insight into the intimate worlds of women and men in these communities.<sup>22</sup> All aspects of family life came under the

purview of these courts, including marriage, sexuality, leisure and lifestyle. There were three broad categories of offence: sexual misconduct, including adultery, incest and fornication; breaches of social and religious norms, such as drunkenness, Sabbath-breaking and slander; and marital offences, including bigamy, irregularly celebrated unions, elopement and petitions for divorce.

The Kirk-Session operated at a local level and was made up of the minister and a body of ruling elders, who were men elected by the community to act as their representatives. The Session was responsible for local matters: it dispensed church poor relief, organised collections and made preparations for the celebration of religious rites. The Session was also the first port of call for cases of church discipline. Elders were empowered to watch over the spiritual and moral welfare of the community and dealt with violations of Presbyterian standards of behaviour. If the Session was unable to resolve a matter of discipline, it was elevated to the next level of church court: the Presbytery. This court acted at a regional level and was made up of the ministers in a given area and representatives from the eldership. Presbyteries were responsible for the installation of new ministers, they oversaw the education of probationers (men who were training to be ministers), they dealt with complaints put against ministers, and they also heard complicated cases of discipline. Aggravated cases of adultery or incest generally came before the Presbytery, as did complicated questions about the legality of marriages. The Synod stood at the very top of the church court pyramid. This body was made up of all the ministers and representative elders under its care. It generally met once a year and was responsible for the oversight of the whole church, from the discipline of ministers and the laity, to the management of funds for widows and families of ministers, and the exercise of church polity.<sup>23</sup>

While some members of the community voluntarily appeared before the church courts and confessed wrongdoing, the indiscretions of most came to light through the prying eyes and ears of their neighbours, families and friends. Networks of informers brought many cases to the notice of the church courts. Presbyterian women and men actively spied on one another, they eavesdropped on conversations and kept watch for any behaviour that seemed out of the ordinary.<sup>24</sup> For instance, in December 1705, George Kelso admitted to Carnmoney Session that he was the source of a rumour that James Young and Margaret Lyk were guilty of adultery. According to George, the pair raised his suspicions when he witnessed their 'indecent' behaviour in coming 'out of a room or pantrie having their face red as he suppos'd with heat or shame'.<sup>25</sup> The motivations of informers were varied. While some undoubtedly acted out of a commitment to moral and religious principles, there is evidence that others raised reports out of malice. The Session of Cahans, county Monaghan, for example, decided not to pursue a case of sexual misconduct against Elizabeth Cortney in March 1768 when it emerged that her accuser, John Stuart, had reported it when a dispute arose between Elizabeth and his mother.<sup>26</sup> Indeed, the church courts were aware that this happened and took pains to punish those who made malicious accusations.<sup>27</sup>

If found at fault, the Kirk-Session would generally impose punishment. The type of punishment awarded varied, depending on the type of offence committed, the notoriety of the indiscretion, how recently it had occurred and the nature of the evidence offered.<sup>28</sup> In most cases resolved by the Kirk-



Session, offenders were denied access to the church privileges of baptism and communion – a punishment that effectively excluded them from church membership. Offenders could only be restored once they had undergone a public rebuke on at least two successive Sabbaths. These public measures further underscore the communal nature of Presbyterian discipline. The process itself was not designed to be purely punitive, but was about upholding and reinforcing standards of agreed behaviour. In instances where offences were aggravated or required further deliberation, the Kirk-Session generally referred such cases to the Presbytery for a decision.

That only a minority of offenders rejected church authority and refused to undergo discipline is testament to the central role that the courts played in the lives of the community.<sup>29</sup> Indeed, the communal nature of Presbyterian discipline is important when we consider that offenders had no legal obligation to abide by their decisions. Although the Presbyterian church courts claimed the right to exercise authority over the lives of members - including the making and breaking of their marriages, its ability to do so was contested throughout the eighteenth and nineteenth centuries. This is because the power to preside over marriage law in Ireland was vested in the ecclesiastical courts, which were controlled by the Anglican establishment. Relations between the two were hostile throughout the period, and marriage continued to be a point of contention until 1845, when marriages performed by Presbyterian ministers were confirmed as legally unassailable.<sup>30</sup> For this reason, it is important to be mindful that the Presbyterian church courts had no authority over marriages contracted by those outside of their own communion, and that their decisions in matrimonial suits did not carry the same legal weight as those of the Anglican church. While generalisations cannot therefore be made about the rest of Ireland from these cases, they do offer an otherwise unrivalled insight into how Presbyterian women and men negotiated the breakdown of their marriages.

## The breaking of marriage: divorce

In common with other religious traditions operating in Ireland at this time, the Presbyterian church also had its own set of rules that governed the making of marriage. The Presbyterian form of marriage and its guidelines were enshrined in two main documents: the *Westminster Confession of Faith* and the *Directory for Public Worship*.<sup>31</sup> These texts outlined the steps that needed to be taken to formalise marriage and the pre-requisites of the persons to be married, including freedom from prior contracts, and the degrees of consanguinity and affinity. Unlike other traditions, however, Presbyterianism also made allowances in its standards for remarriage and divorce. According to the *Confession*, divorce could be obtained in cases of 'wilful desertion' and adultery, enabling the 'innocent Party' to 'marry another, as if the offending Party were dead'.<sup>32</sup>

Examples of how this worked in practice can be found in the minute books of the church courts. Such a route was taken by George Huston in August 1806 when he petitioned the Reformed Presbytery to grant him a divorce from his estranged wife, Ann Long. According to George, the couple were married on 3 May 1802 and after just six weeks of marriage, Ann 'left him without any just cause & refused to return'.<sup>33</sup> George further strengthened his case by adding that Ann had since gone on to have a child with another man – underlining the fact that

she had entered into a sexual (and adulterous) relationship. After a period of deliberation, the Presbytery voted to approve George's request, noting that they were satisfied that Ann 'had completely broken the conjugal vow'.<sup>34</sup>

George Huston's case, however, is in the minority. As was the case in Scotland, petitions for divorce on the grounds of desertion and adultery rarely came before the Presbyterian church courts in Ireland.<sup>35</sup> One possible reason for this was that the process of securing a divorce was by no means easy. While Presbyterian standards made room for divorce, it could only be granted in cases where there was no possibility of the situation being 'remedied by the church or civil magistrate'.<sup>36</sup> Moreover, spouses could not initiate divorce proceedings privately, but were to follow a 'public and orderly course' - meaning, that marital problems would be aired publicly and shared with the wider community.<sup>37</sup> As Mary O'Dowd has noted, such measures reflected the concerns of the Presbyterian church courts 'to maintain bonds [rather] than dissolve them'.<sup>38</sup>

The church courts made every effort to reconcile unhappy wives and husbands, taking on informal roles as marriage counselling services and peacemakers in family disputes in the process.<sup>39</sup> Conflict, although undesirable, appears to have been regarded as a normal part of married life. That the Kirk-Session believed that marital conflict could (and should) be resolved, is clear from the minute books. Samuel Thoburn and Jenat Girvan were rebuked by Carnmoney Session in June 1703 on account of 'their sin & great folly' in parting 'some time ago'.<sup>40</sup> Relations had apparently been frosty in the marriage for some time. Two years previously, Samuel had appeared before the Session and complained that his mother-in-law, Mary Kell, had accused him of adultery – a charge he denied.<sup>41</sup> While no action was taken against Samuel on the adultery charge, it is worth reiterating that adultery was technically grounds for divorce. In taking the case to the Session himself, Samuel may have been attempting to clear his name and prevent his wife from leaving him. The Session subsequently exhorted the pair to 'be more watchful ag[ains]t these things wch occasion'd animostys'.<sup>42</sup>

The church courts held a tight grip on divorce in order to ensure that married couples did not terminate unions without sufficient reason. Indeed, some Sessions acknowledged that there was the possibility of spouses applying for divorce on false grounds. The case of Robert Wray, which came before Ballymoney Session, county Antrim, in May 1829 is a good example. When Robert wrote to the Session and asked that the 'marriage engagements' between himself and his wife, Martha Pinkerton, be 'formally dissolved', he immediately roused suspicion.<sup>43</sup> According to Robert, he and his wife 'had not agreed well together' and 'agreed to separate upon certain conditions'.<sup>44</sup> Following this, Martha had allegedly committed adultery and had a child with another man – actions that met the requirements for a divorce.<sup>45</sup> The Kirk-Session were not convinced and expressed their doubts about the veracity of the case: Robert was not a regular member; it was known he had treated his wife poorly and 'forced' her to leave; and he had a 'disreputable' character.<sup>46</sup> After conducting an investigation, the elders rejected Robert's petition for divorce on the grounds that 'his only motive [was] his anxiety to get married again'.<sup>47</sup> As this case demonstrates, applications for divorce were not easily granted. Indeed, while guarding access to divorce may have protected some women (and men) from false allegations of adultery, it also had the effect of trapping spouses in unhappy marriages.

## Mutual separation

One alternative to divorce that was taken up by Presbyterian women and men was separation. The minutes of the church courts provide some tantalising insights into both the reasons for separation, as well as how it worked in practice. A number of women who appeared before Carnmoney Session over the course of the late seventeenth and eighteenth centuries and made a case for separation, did so on the grounds of neglect and abuse. Domestic violence likely underlay the appeal of Lettuce Wilson in July 1697 for the Session's 'concurrence' in her separation from her husband, Alexander McDowel. According to Lettuce, she had 'no peace in her family because of her husband's hard usage'.<sup>48</sup> Instead of securing the Session's approval, Lettuce and Alexander were cited to appear again together, so that 'the matter [could] be heard & differences remov'd'.<sup>49</sup> Other women drew attention to the failure of their husbands to provide for them and their families. In July 1702, Marion McCrackin complained that her husband, Robert Shanks, did 'not cohabit with her and mars her livelihood'.<sup>50</sup> Both were appointed to be at the next meeting of the Session, but by the following March it was noted that Robert Shanks had 'fled the country'.<sup>51</sup>

Separated spouses posed a number of potential problems for the church courts: errant partners might participate in sexual intercourse with someone other than their spouse, resulting in adultery and possible illegitimate children; individuals might contract new relationships that would be technically bigamous; and communities themselves might become responsible for the financial support of families left behind. When Kirk-Sessions were made aware that a married couple were living apart, they intervened and did all they could to reconcile estranged spouses and prevent further misconduct. For example, when Carnmoney Session found out in August 1698 that Jenat Colbeart was 'not living with her husband' Alexander, they cited her to appear and explain.<sup>52</sup> Jenat told how she could not 'have a life' with her husband and that he would 'not labour to get [the family] bread'.<sup>53</sup> Her willingness to 'dwell wth him' again if he would make 'provision for the family' laid the groundwork for the Session's subsequent efforts to reconcile the pair - a separation which they remarked was 'a scandalous way of living for man & wife'.<sup>54</sup> The Session tracked Alexander down to the nearby community of Templepatrick, and cited him to appear and explain his cause for leaving.<sup>55</sup> When the Session met again the following December, they ruled that there were 'failings ... on both sides' and reported that Alexander was now willing to 'dwell with his wife & maintain her as he could' on the condition that she relocate to Templepatrick.<sup>56</sup> Jenat, however, was unwilling to make the move and refused to cohabit again with her husband unless he moved back to Carnmoney. In a reversal of fortunes, Jenat now became the subject of the Session's disapproval. Whereas she was reprov'd for her 'hazard' in voluntarily 'deserting her husband', Alexander was advised to 'seek counsell whether he may not be legally desir'd seeing she will not cohabit wth him'.<sup>57</sup> In this case, the church court was less concerned with attributing blame than it was with reconciling estranged spouses.

While the church courts certainly disapproved of marital separation, there does appear to have been some leeway in cases where domestic discord reached unacceptable levels. The example of Margaret Kerr and James Boyd, which

came before the Presbytery of Route in 1703 is a case in point. James first came to the attention of the Presbytery in December 1701 when he was cited for refusing to submit to discipline for the sin of adultery with two different women.<sup>58</sup> That James's adulterous affairs had a negative impact on his family life is suggested by the minutes. In February 1702, the Presbytery noted how James was so obstinate that he 'refuse[d] to let his family be orderly; or to be catechized' while he was under suspension.<sup>59</sup> After much back and forth, James eventually acknowledged his fault and in April 1702 was publicly rebuked for his offence.<sup>60</sup> The following year, an angry James reappeared before the Presbytery and accused them of granting Margaret a divorce.<sup>61</sup> As it turned out, what the Presbytery had awarded Margaret was not a divorce, but a testimonial - a certificate of good behaviour that would enable her to leave the bounds of her congregation and join another wherever she pleased. That the Presbytery viewed the testimonial as a passport to a new life for Margaret is indicated by the reason they offered for granting it:

The meeting knowing that they granted her a testimonial ... that she might be admitted a member in any Christian congregation, in regard James Boyd her husband who had been convict of divers adulterys grew so abusive to her that she fear'd for her life in his company being beaten grievously by him.<sup>62</sup>

Although keeping marriages together was the ultimate aim of the church courts, when those unions threatened the lives of spouses, upset the peace of individual families and their wider communities, there was sometimes room for manoeuvre.

While animosity underlay some separations, in other cases couples appear to have mutually agreed to terminate unworkable relationships. In her study of Presbyterian marital and sexual behaviour in eighteenth-century Scotland, Katie Barclay argued that the laity's awareness that divorce was a *possibility* had a major impact on their attitudes to marital separation. Some Scottish couples devised their own elaborate separation agreements, with the view to dissolve their existing marriages and contract new ones in the future.<sup>63</sup> Similar examples appear in the minutes of the Irish Presbyterian church courts. This is what is alleged to have happened in the case of James Kirkwood, who was suspended from church privileges after he independently annulled his first marriage and remarried without gaining the consent of the church courts.<sup>64</sup> According to James, he and his first wife were married by an 'irregular clergyman' and shortly after, she deserted him and despite his 'repeated solicitations ... could not be prevailed on' to return.<sup>65</sup> Unable (and unwilling) to reconcile, the pair agreed to dissolve their marriage and 'gave under their hands with mutual consent [that] they were to have no further intercourse nor after claim'.<sup>66</sup> Regarding himself as a free man, James then married his second wife and was subsequently suspended from church privileges in his local congregation at Finvoy, county Antrim.<sup>67</sup>

James's case was escalated to the Presbytery on account of its complex nature. Technically, his second marriage was bigamous. While the Presbyterian church disapproved of marriages conducted by 'irregular' clergymen - a term used to describe suspended ministers, they could not declare them invalid. Such marriages, after all, were valid in the eyes of civil law.<sup>68</sup> The Presbytery decided to rebuke James for his irregular

marriage and then to restore him to church privileges.<sup>69</sup> The reasons for their relative leniency in this case are unclear. It is possible, however, that the written agreement to separate was enough to convince the church courts that James was telling the truth.

As was the case in England, evidence also exists that suggests that some separated couples went on to establish new households, complete with new spouses and children, firmly in the knowledge of where their estranged partner was living. For example, when John Haslett appeared before the Presbytery of Down in March 1786 and confessed antenuptial fornication with his wife, Mary Maytre, and marrying her 'wt License'; he also admitted that Mary had been married once before.<sup>70</sup> According to John, Mary had been married to a man named Benjamin Robinson, who had deserted her ten years previously and was now 'living wt another woman as her husband & had several children'.<sup>71</sup> That Mary was aware of her estranged husband's whereabouts is notable: both parties had evidently moved on from the failed marriage. Indeed, it is likely that the desertion would never have come to the notice of the Session were it not for the fact that John was charged with antenuptial fornication. It is probable that Mary was either pregnant or had recently given birth, sparking the interest of the Session into the date of their marriage. The case was returned again to the Presbytery for consideration in May 1787, which decided that 'after some conversation' to admit the marriage as 'valid' and rebuke John for the scandal of antenuptial fornication.<sup>72</sup> In this case, the previous marriage was overlooked.

## Desertion

While some couples did agree to separate and live apart, many others were unwilling victims of desertion. Scattered throughout the minutes of the Presbyterian church courts are instances of men and women whose partners 'went off' or 'eloped' from them shortly after contracting marriage. A number of such cases appear in the minute book of the First Dromara Kirk-Session, county Down: in October 1794, Elizabeth Gleny complained that her husband 'went off and left her' after they married; in April 1796, Elizabeth Adams expressed her sorrow for marrying irregularly and 'promis'd if her husband came home to her' she would be regularly married; and in April 1800, Elizabeth Walker appeared and acknowledged her irregular marriage, 'her Husband being eloped from her'.<sup>73</sup>

Many cases of desertion came to the notice of the Session precisely because women and men wanted to remarry. While civil law permitted individuals to remarry if their partners were missing for seven years or more, in reality the cases that came before the church courts were more complicated.<sup>74</sup> For example, in October 1805, the Presbytery of Monaghan considered the case of Jane Beatty, who 'wish[ed] to know the propriety & lawfulness of her entering into the married state'.<sup>75</sup> Jane's husband had deserted her five years previously – two years short of the legal minimum.<sup>76</sup> However, her case was complicated by the fact that her estranged husband had 'got himself proclaimed in church under a fictitious name & was married to another woman'.<sup>77</sup> If Jane's account was true, not only was her husband's second marriage bigamous, she would also have been unable to marry. Unfortunately, the outcome of this case is not recorded in the minutes. Jane failed to reappear before the Presbytery and provide further details.<sup>78</sup>

Two years later, in October 1807, a similar case with different complications came before the Presbytery. The Session of Clontibret wrote to the Presbytery for advice on how to deal with Margaret McKeifer, who wanted to know the 'propriety and lawfulness of her entering into the married state'.<sup>79</sup> The Session explained that Margaret had been married fourteen years previously to a man named Robert Allister, who 'in less than a year after their marriage deserted her without just cause, and took off [with] his sister-in-law Jane McKeifer, with whom he committed adultery & incest'.<sup>80</sup> Robert had since gone to America, where it was reported he had married for a third time.<sup>81</sup> Margaret certainly had a case for divorce (should she have asked for one) according to Presbyterian guidelines: her husband had wilfully deserted her and committed adultery. Weighing up the merits of the case, the Presbytery ruled that it was 'lawful' for her to marry on account of the 'circumstances' of the application and her 'prudent sober behaviour'.<sup>82</sup>

## New relationships

In cases of long-term desertion, it was not uncommon for individuals to assume that their spouse was deceased and to remarry, only for their estranged partner to return. A fairly detailed example of this can be found in the case of Hugh Gebby, who appeared before the Presbytery of Down in February 1823 to explain the circumstances of his bigamous marriage. Hugh claimed to have married innocently, telling the Presbytery that he was sure his first wife was dead. Hugh, a soldier, had been posted 'abroad' in 1805 and his wife was unable to join him. One year later, he received a letter from her, in which she told him she was confined to bed in a London hospital with sickness. This was the last communication Hugh claimed to have had with his wife. Nine years later, in 1815, Hugh arrived back in England and received a letter from his brother in Ireland that stated his wife was 'said & believed' to be dead. He then remarried. Two years later, in 1817, his estranged wife turned up at his house in 'straitened circumstances' and disappeared again after receiving assistance.<sup>83</sup> Taking into consideration the extreme circumstances of the case, the Presbytery looked favourably on Hugh Gebby and decided not to exclude him from communion.

While some couples did take steps to make new relationships 'official' and remarry, many others simply cohabited with a new partner. Those who did so often found themselves called before their local Kirk-Session. As much as the Presbyterian church was concerned to maintain marital bonds, it was just as scrupulous in separating couples they believed were cohabiting bigamously. In March 1721, Templepatrick Session ruled that Andrew McElvan and his wife 'should be parted' after it emerged that her former husband, Archibald, 'who ha[d] been long abroad' returned home.<sup>84</sup> They further judged that Andrew was guilty of adultery with the woman he considered his wife.<sup>85</sup> A similar charge was levied against Thomas Halliday of the community of Clarkesbridge in July 1815, when it emerged that the husband of his supposedly widowed wife, Jane Monaghan, was alive and living in Canada. The Presbytery of Monaghan, who oversaw the case, decided that he too was chargeable with adultery.<sup>86</sup>

For many couples, the labelling of their relationships as 'bigamous' or 'illegitimate' must have come as a shock, particularly for those who had been living together for considerable periods of time. Such an example can be found



in the case of John Leech, who was referred to the Presbytery of Route for the sin of 'uncleanness' with Elizabeth Dunsmoor, 'a supposed married Woman'.<sup>87</sup> John, a 'single man', had 'constantly' cohabited with Elizabeth for ten years without knowing 'whither her husband be dead or alive'.<sup>88</sup> Whereas John expressed his 'designs to Marry' Elizabeth, the Session told him 'to put her away immediatly & acknowledg his sin of Adultery'.<sup>89</sup> They further threatened to excommunicate him and declare him as an 'obstinate adulterer' if he refused to comply.<sup>90</sup> The refusal of the church court to acknowledge the existence of their relationship stood in stark contrast to the lived experience of individuals like John and Elizabeth, who had spent considerable periods of time together.

Other couples endured long battles with the church courts to accept their new relationships. Such an example can be found in the case of John Hovey, who petitioned the Presbytery of Monaghan to admit him to church ordinances for over six years. His case was referred to the Presbytery by the Session of Coronary in May 1804, who had initially barred him from ordinances after he contracted a second marriage. James claimed that his first wife, Fanny Sharp, had 'eloped from him without ... just cause' and that he married again three months later to another woman, to whom he now had six children.<sup>91</sup> The Presbytery were unable to come to a decision and returned the case to Coronary for further investigation. Despite appearing again in September 1804, with the added detail that he and his second wife now had seven children, the case remained unresolved.<sup>92</sup> Six years later, in 1810, James again petitioned the Presbytery. By this time, he and his second wife had eight children. James told the Presbytery that not only had Fanny Sharp eloped from him, but that she was guilty of adultery and was reported to have gone to America and died.<sup>93</sup> Neither this new evidence, nor the fact that James and his second wife had clearly established a stable family unit, was enough to sway the Presbytery. Unable to come to a decision, they again sent the case back to Coronary Session for further investigation.<sup>94</sup>

James Hovey's case is notable for its length. By his last appearance before the Presbytery in 1810, James and his second wife had lived together as a conjugal unit, with their eight children, for at least twelve years. By all accounts, they were a functioning family unit. That they were able to cohabit for this length of time suggests a degree of toleration from their surrounding community. We cannot know for sure what underlay James Hovey's dogged desire for reconciliation, but his repeated efforts to secure it indicates the importance of community membership. While the Presbyterian church had no legal authority over the marriages of its members, many sought its approval and guidance regardless.

## Conclusion

As the examples in this article have shown, marital dissolution was an achievable reality for Presbyterian women and men in eighteenth- and nineteenth-century Ireland. Whether by mutual agreement, or as unwilling victims of desertion, married couples took active steps to terminate unworkable relationships. While divorce was technically an option for those belonging to the Presbyterian community, it was not undertaken very often. Instead, married couples appear to have held a much more flexible attitude to the breaking of marriage than either their church or state. Such evidence lends further support to the argument of O'Dowd that the depiction of Ireland in this period as a society 'bound by a puritan code of sexual morality' is misleading.<sup>95</sup> As was the case with the making of marriage, women and men in Presbyterian Ulster negotiated the breaking of marriage according to accepted community values.<sup>96</sup> In a society where access to formal divorce was restricted on the grounds of wealth, privilege and gender, Presbyterianism's more liberal attitude to marriage dissolution gave its members the confidence to pursue alternative relationships. An examination of the minutes of the Irish Presbyterian church courts therefore



*'A husband returns to his wife, the children rush out to greet him and an older woman stands in the doorway'.*

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casts fresh light on the history of the breaking and remaking of marriage in Ireland. Indeed, in the absence of a comparable archive for the ecclesiastical courts, Presbyterian minutes offer Irish historians an alternative window into this understudied aspect of Irish social history.

## Notes

1. Public Record Office of Northern Ireland (hereafter PRONI), MIC1P/37/4/9, Carnmoney Kirk-Session minutes, 30 May 1703.
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*, 8 Jun. 1703.
5. *Ibid.*, 8 Jun. 1703; 23 Jun. 1703; 30 Jun. 1703.
6. *Ibid.*, 21 Sept. 1703.
7. The phrase 'Divorce Irish Style' was coined by an article in the *Evening Press* by Joseph Cole in April 1967. See, Diane Urquhart, *Irish Divorce: A History* (Cambridge, Cambridge University Press, 2020), 202; Diane Urquhart, "'Divorce Irish Style': Marriage Dissolution in Ireland, 1850–1950", in *Law and the Family in Ireland, 1800–1950*, ed. Niamh Howlin and Kevin Costello (London, Palgrave, 2017), 107–24; Deidre McGowan, 'Class, Criminality and Marriage Breakdown in Post-Independence Ireland', in *Law and the Family in Ireland, 1800–1950*, ed. Niamh Howlin and Kevin Costello (London, Palgrave, 2017), 125–41.
8. David Fitzpatrick, 'Divorce and Separation in Modern Irish History', *Past & Present*, 114 (1987), 174.
9. Exceptions include, Urquhart, *Irish Divorce*, Maria Luddy and Mary O'Dowd, *A History of Marriage in Ireland, 1660–1925* (Cambridge, Cambridge University Press, forthcoming 2020); Mary O'Dowd, 'Marriage Breakdown in Ireland, 1660–1857', in *Law and the Family in Ireland, 1800–1950*, ed. Niamh Howlin and Kevin Costello (London, Palgrave, 2017), 7–23; Maria Luddy, 'Marriage, Sexuality and the Law in Ireland', in *The Cambridge Social History of Modern Ireland*, ed. Eugenio F. Biagini and Mary E. Daly (Cambridge, Cambridge University Press, 2018), 344–62; John Bergin, 'Irish Private Divorce Bills and Acts of the Eighteenth-Century' in *People, Politics and Power: Essays on Irish History, 1660–1850, in Honour of James I. McGuire*, ed. James Kelly, John McCafferty and Charles Ivar McGrath (Dublin, University College Dublin Press, 2009), 94–121.
10. Urquhart, "'Divorce Irish Style'", 107–08; Sarah-Anne Buckley, 'Women, Men and the Family, c.1730–c.1880', in *The Cambridge History of Ireland*, volume 3, ed. James Kelly (Cambridge, Cambridge University Press, 2018), 251.
11. Luddy, 'Marriage, Sexuality and the Law', 349. David Fitzpatrick has noted that in Ireland, the costs of an undefended action exceeded £300, putting it outside of the reach of those lower down the social scale. See, Fitzpatrick, 'Divorce and Separation', 175.
12. Luddy, 'Marriage, Sexuality and the Law', 349.
13. *Ibid.*, 350.
14. Urquhart, "'Divorce Irish Style'", 108.
15. Diane Urquhart, 'Ireland and the Divorce and Matrimonial Causes Act of 1857', *Journal of Family History*, 38/3 (2013), 314–15.
16. O'Dowd, 'Marriage Breakdown', 7.
17. See, O'Dowd, 'Marital Breakdown', 8–12. The records for the medieval diocesan court in Armagh have survived. See, Art Cosgrave, 'Marriage in Medieval Ireland', in *Marriage in Ireland*, ed. Art Cosgrave (Dublin, College Press, 1985), 25–50.
18. O'Dowd, 'Men, Women, Children', 298.
19. Leanne Calvert, "'He Came to Her Bed Pretending Courtship": Sex, Courtship and the Making of Marriage in Ulster, 1750–1844', *Irish Historical Studies*, 42/162 (2018), 244–64; Leanne Calvert, "'What a Wonderful Change Have I Undergone ... So Altered in Stature, Knowledge & Ideas!": Apprenticeship, Adolescence and Growing Up in Eighteenth- and Nineteenth-Century Ulster', *Irish Economic and Social History*, 45/1 (2018), 70–89; Leanne Calvert, "'A More Careful Tender Nurse Cannot Be Than My Dear Husband": Reassessing the Role of Men in Pregnancy and Childbirth in Ulster, 1780–1832', *Journal of Family History*, 42/1 (2017), 22–36; Leanne Calvert, "'Do Not Forget Your Bit Wife": Love, Marriage and the Negotiation of Patriarchy in Irish Presbyterian Marriages, c. 1780–1850', *Women's History Review*, 26/3 (2017), 433–54; Leanne Calvert, "'I am Friends Wt You & Do Entertain No Malice": Discord, Disputes and Defamation in Irish Presbyterian Church Courts, 1700–1830', in *Law and Religion in Ireland*, ed. Kevin Costello and Niamh Howlin (London, Palgrave, forthcoming 2020).
20. A.R. Holmes, *The Shaping of Ulster Presbyterian Belief and Practice, 1770–1840* (Oxford, Oxford University Press, 2006), 4; D.M. MacRaild and Malcolm Smith, 'Migration and Emigration, 1600–1945', in *Ulster since 1600: Politics, Economy and Society*, ed. Liam Kennedy and Philip Ollerenshaw (Oxford, Oxford University Press, 2013), 141–4; Calvert, "'He Came to Her Bed"', 247.
21. S.J. Connolly, *Religion and Society in Nineteenth-Century Ireland* (Dundalk, Economic and Social History Society of Ireland, 1985), 3.
22. Less than twenty Kirk-Session minute books survive for the eighteenth century. While this may be the result of some communities not practising discipline, it is likely that many Kirk-Session minute books have simply been lost over time.
23. See, J.M. Barkley, *A Short History of the Presbyterian Church in Ireland* (Belfast, Presbyterian Church Publications Board, 1963), 83–84.
24. Calvert, "'He Came to Her Bed"', 252–53.
25. PRONI, MIC1P/37/4/9, Carnmoney Kirk-Session minutes, 15 Dec. 1705.
26. PRONI, CR3/25/B/2, Cahans Kirk-Session minutes, 27 Mar. 1768.
27. This issue is covered in detail in Calvert, "'I am friends wt you"'.
28. A.R. Holmes, 'Community and Discipline in Ulster Presbyterianism, c. 1770–1840', in *Retribution, Repentance and Reconciliation*, ed. Kate Copper and Jeremy Gregory (Woodbridge, Boydell, 2005), 272.
29. Andrew Blaikie and Paul Gray, 'Archives of Abuse and Discontent? Presbyterianism and Sexual Behaviour During the Eighteenth and Nineteenth Centuries', in *Ireland and Scotland. Order and Disorder, 1600–2000*, ed. R.J. Morris and Liam Kennedy (Edinburgh, John Donald, 2005), 69–70, and discussion in footnote, 257.
30. Holmes, *Shaping of Ulster Presbyterian*, 214; Calvert, "'He Came to Her Bed"', 59.
31. Presbyterian Church in Ireland, *The Constitution and Discipline of the Presbyterian Church; with a Directory for the Celebration of Ordinances, and the Performance of Ministerial Duties, Published by the Authority of the General Synod of Ulster* (Belfast, 1825); *The Confession of Faith, the larger and shorter*



*catechisms, with the scripture-proofs at large* (Glasgow, 1757).

32. *The Confession of Faith, the larger and shorter catechisms, with the scripture-proofs at large. Together with the sum of saving knowledge ...* (Glasgow, 1757), 133–34. See also O’Dowd, ‘Marriage Breakdown’, 12.

33. PRONI, CR5/5A/1/2/A, Minutes of the Reformed Presbytery of Ireland, August 1806.

34. *Ibid.*, March 1807.

35. Rosalind Mitchison and Leah Leneman, *Sexuality and Social Control: Scotland, 1660–1780* (Oxford, Basil Blackwell, 1989), 193. Holmes has noted the existence of three such cases in Ulster, two in the Burgher Presbytery of Upper Tyrone and one in Ballymoney Kirk-Session. See, Holmes, *Shaping of Ulster Presbyterian*, 223.

36. *Confession*, p. 134.

37. *Ibid.*

38. O’Dowd, ‘Marriage Breakdown’, 12

39. Calvert, ‘I am friends wt you & do entertain no malice’; Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven, Yale University Press, 2002), 266; Leah Leneman, ‘Defamation in Scotland, 1750–1800’, *Continuity & Change*, 15/2 (2000), 209–34.

40. PRONI, MIC1P/37/4/9, Carnmoney Kirk-Session minutes, 23 Jun. 1703.

41. *Ibid.*, 7 Dec. 1701; 14 Dec. 1701; 17 Dec. 1701.

42. *Ibid.*, 23 Jun. 1703.

43. PRONI, CR3/1/B/4, Ballymoney Kirk-Session minutes, 9 May 1829.

44. *Ibid.*

45. *Ibid.*

46. *Ibid.*

47. *Ibid.*

48. PRONI, MIC1P/37/4/9, Carnmoney Kirk-Session minutes, 14 Jul. 1697.

49. *Ibid.* The case does not appear again in the minutes.

50. *Ibid.*, 22 Jul. 1702.

51. *Ibid.*, 19 Aug. 1702.

52. *Ibid.*, 3 Aug. 1698.

53. *Ibid.*

54. *Ibid.*, 12 Nov. 1698.

55. *Ibid.*

56. *Ibid.*, 7 Dec. 1698.

57. *Ibid.*

58. Presbyterian Historical Society of Ireland, Belfast (hereafter PHSI), 31 Dec. 1701.

59. *Ibid.*, 3 Feb. 1702.

60. *Ibid.*, 7 Apr. 1702; 12 May 1702.

61. *Ibid.*, 5 Apr. 1703.

62. *Ibid.*, 5 Apr. 1703; 2 Mar. 1703.

63. Katie Barclay, ‘Marriage, Sex and the Church of Scotland: Exploring Non-Conformity Amongst the Lower Orders’, *Journal of Religious History*, 43/2 (2019), 177–78.

64. PHSI, Minutes of the Presbytery of Route, 26 Jul. 1814.

65. *Ibid.*

66. *Ibid.*

67. *Ibid.*

68. Luddy, ‘Marriage, Sexuality’, 347; Calvert, ‘“He Came to Her Bed”’, 260.

69. PHSI, Minutes of the Presbytery of Route, 26 Jul. 1814.

70. PHSI, Minutes of the Presbytery of Down, 15 Mar. 1786.

71. *Ibid.*

72. *Ibid.*, 2 May 1787.

73. PRONI, T1447/1, First Dromara Kirk-Session minutes, 3 Oct. 1794; 22 Apr. 1796; 25 Apr. 1800. These cases are also discussed in Calvert, ‘“He Came to Her Bed”’, 262.

74. O’Dowd, ‘Marriage Breakdown’, 13.

75. PHSI, Minutes of the Presbytery of Monaghan, 8 Oct. 1805.

76. *Ibid.*

77. *Ibid.*

78. *Ibid.*

79. *Ibid.*, 6 Oct. 1807.

80. *Ibid.*

81. *Ibid.*

82. *Ibid.*

83. PHSI, Minutes of the Presbytery of Monaghan, 18 Feb. 1823.

84. PRONI, CR3/12/B/1, Templepatrick Kirk-Session minutes, 19 Mar. 1721.

85. *Ibid.*

86. PHSI, Minutes of the Presbytery of Monaghan, 4 Jul. 1815; 29 Aug. 1815.

87. PHSI, Minutes of Route Presbytery, 18 Jul. 1704.

88. *Ibid.*

89. *Ibid.*

90. *Ibid.*

91. PHSI, Minutes of the Presbytery of Monaghan, 29 May 1804.

92. *Ibid.*

93. *Ibid.*, 4 September 1810.

94. Hovey’s case does not appear again in the minutes. Unfortunately, the outcome is not known.

95. O’Dowd, ‘Marriage Breakdown’, 23.

96. Calvert, ‘“He Came to Her Bed”’, 263.

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