

Letter 490a: [After 29 November 1532, Strasbourg], Capito and Martin Bucer to the City Council of Bern

Printed in BDS 10:138–62, no. 11.

[*Summary*]: Capito and Bucer give their considered reply to two questions addressed to them by the city council of Bern. Firstly, if the guilty party in a divorce remarries without permission of the marriage tribunal, is the marriage valid? Secondly, are adulterers permitted to marry the person with whom they have committed adultery? The Strasbourgers acknowledge that the Bernese laws are based on the gospel, but advise them to consider the spirit rather than the letter of the law. Bernese law obliges the guilty party to wait for a minimum of one year before remarrying. If the marriage takes place earlier and without permission of the tribunal, the guilty party may be exiled or pardoned after paying a fine. While the Strasbourgers acknowledge the wisdom of dealing harshly with adulterers, they advise the judges to consider practical difficulties such as the parties' ability to remain celibate, earn a living or look after their children without a spouse. If concessions are made in the interest of allowing them to lead an honest and morally blameless life, a fine should be levied, and the marriage be recognized by the authorities.

In response to the second question, the Strasbourgers note that a marriage between adulterers is repugnant and may give the impression that the council tolerates or even rewards sinful behaviour, yet such a marriage should be accepted in the interest of allowing the parties to lead an honest life. Nevertheless, the fact is that they broke the law, and for that they should be punished. In making such decisions, the judges should remember that they are acting on behalf of God and must always take into consideration the moral well-being of the community. In passing laws it is important to spell out contingencies to leave as little as possible to the interpretation of individual judges.