

QUESTIONS ABOUT MATRIMONY and DIVORCE.

Questions addressed to a Catholic Priest. From “Radio Replies”.

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Matrimony.

You Catholics include marriage among the Sacraments don't you?

Yes. Every valid marriage between baptized Christians constitutes the Sacrament of Matrimony.

Christ did not institute marriage. It existed long before His advent to this world.

Prior to Christ it existed as a matrimonial contract, but Christ elevated it to the dignity of a Sacrament of the New Law. Christ therefore instituted matrimony as a Sacrament. He blessed marriage by His presence at Cana, and declared its indissolubility when He said, "What God has joined, let not man put asunder." Henceforth, what was formerly a union by human contract was to be regarded by Christians as sealed by God in a new and special way.

How can marriage be a Sacrament?

A Sacrament is a visible rite instituted by Christ for the signifying and giving of grace. Marriage is a visible rite, witnessed by men. It has been elevated by Christ to sacramental dignity. It signifies something very sacred, the union of Christ with His Church, as Saint Paul tells us in Ephesians 5:22-33. (Note verse 32: "Marriage is a great Sacrament, but I speak in Christ and in the Church.") There is but one Christ and one true Church. So there must be but one husband and one wife in each case. As there is no divorce between Christ and His Church, so there can be no divorce between husband and wife. And as the union between Christ and the Church results in the production of grace, so this sacred union in marriage conveys grace to the contracting parties that they may rightly fulfill their duties to each other, and to their children, for the love of God.

Marriage is a legal status not subject to any law spiritual.

If no law spiritual governs marriage, why did Christ say, "But I say unto you that whosoever shall put away his wife and marry another, commits adultery"? Christ was not the civil ruler, and He

had said explicitly, "Render to Caesar the things that are Caesar's." If marriage belongs solely to civil authority, Christ would have left it to civil authority. And why did Saint Paul say, "Marriage is a great Sacrament, but I speak in Christ and in the Church"? (Ephesians 5:32) He did not say, "But I speak for the viewpoint of civil authority." Again, elsewhere he writes, "Let her marry to whom she will, only let it be in the Lord." 1 Corinth 6:39.

According to your doctrine, polygamy would be wrong. But the Bible permitted it.

Christ clearly tells us that, whatever concessions were made in the Old Law, it was God's intention from the very beginning that a man should cleave to his wife, not to his wives, and that they should be two in one flesh. God had made concessions because of the hardness of men's hearts in the less perfect Law, but those concessions were withdrawn in the more perfect Law. Christ restored the primitive law, and said, "Henceforth what God has joined together, let not man put asunder." Mark 10:2-9.

Divorce.

Christ allowed divorce for one reason. He said, "Whosoever shall put away his wife, except for fornication, makes her to commit adultery." Matthew 5:32.

Christ allowed permanent separation if adultery be committed, but He does not allow divorce and re-marriage in the sense you intend. When He said, "Whosoever shall put away his wife, except for the cause of fornication, makes her to commit adultery, et cetera," the sense He intended was this, "Whosoever shall put away his wife (I am not speaking of mere separation without re-marriage, for that is lawful in the case of fornication), but whosoever shall put away his wife . . . he that marries her commits adultery." This is the only possible interpretation in the light of parallel passages (unless the word 'fornication' in the original Greek referred to marriages that should be annulled due to the 'uncleanness' caused by consanguinity). Thus Saint Mark records Christ's words absolutely, "Whosoever shall put away his wife and marry another, commits adultery against her." Mark 10:11. In Saint Luke, also, we have the words without any parenthesis: "Every one that puts away his wife, and marries another, commits adultery, and he that marries her that is put away from her husband, commits adultery." Luke 16:18. Saint Paul tells us clearly, "A woman is bound by the law as long as her husband lives; but if her husband die, she is at liberty." 1 Corinth 7:39. For a Christian, then, there is no such thing as divorce and re-marriage whilst the first partner is still living. Attempted re-marriage results in a sinful union only. You can have divorce and give up Christianity, or you can have Christianity and give up divorce. You cannot have both.

The civil law admits divorce and re-marriage.

Civil law and divine law are not always in harmony. Politicians at times exceed their powers and make laws, which are contrary to those of God. Thus, they have legislated concerning matrimony with no reference to the will of Christ who raised the marriage contract to the dignity of a Sacrament.

Your law imposes a great hardship upon the innocent party.

It is the law of Christ, not a law made by the Catholic Church. And it is at times hard upon the innocent party. But since when were we dispensed from the observance of God's laws on the score that obedience to them is inconvenient?

What can one do if the husband is absolutely impossible to live with, or is guilty of adultery?

Brutal cruelty and ill treatment afford lawful grounds for separation, as also does adultery if it has not been condoned. But this separation does not break the bond of marriage. Death alone can do that, and neither is free to marry again whilst the other is still living. For grave reasons a Catholic can obtain ecclesiastical permission to have the separation rendered legal by a civil decree of divorce in order to avoid legal difficulties, but this must be on the understanding that such a decree leaves neither party free to contract another marriage whilst the other party is still living.

Are there not many cases in history where the Pope has granted a divorce and permission to re-marry for various reasons?

You would find it very difficult to prove one such case. Many decrees of nullity have been issued, but they are not divorces. Yet even supposing that you could prove that some individual Pope had granted such a divorce, that would be no argument against the doctrine of the Catholic Church. It would but prove that such an individual Pope acted against his conscience and against the teaching of the Church. An appeal to the lapse on the part of an individual Pope proves nothing against the Church. You cannot disprove a law by pointing to a criminal who has broken it. The Catholic Church has always taught that divorce of a true marriage with the right to re-marry is not allowed.

Did not the Pope grant divorces to Louis XII and Henry IV of France, and very nearly to Henry VIII of England, being prevented in this case by fear of the emperor Charles V?

The two prior marriages you mention were declared to have been null and void from the beginning. Therefore, no true marriage had ever existed. Louis XII (1498-1515) proved conclusively that he had not been a free agent in marrying Joan, having been compelled by her father, Louis XI, to submit to the ceremony. So too, the first marriage of Henry IV (1589-1610) was declared null and void because Marguerite de Valois had been forced into the marriage by her mother, Queen Catherine, for political purposes. The free consent of both parties is necessary for a true and binding marriage contract. In the case of Henry VIII (1509-1547), the power of Charles V was a motive why his marriage with Catherine of Aragon should not be declared null without rigid proof of its invalidity. At the same time, the enmity of Henry was to be avoided if at all possible, and theologians did all they could to see whether the first marriage were really null and void. But it was impossible, and at the risk of losing England to the Holy See, a negative decision had to be given. Henry promptly declared himself head of the Church in England, and took the divorce or annulment Rome refused to grant.

Did not the Pope give Napoleon a divorce?

No. Napoleon married Josephine in 1796, a marriage validated by a dispensation from the Pope. From that marriage, Napoleon never secured any divorce or annulment by lawful ecclesiastical authority. He forced a declaration of nullity from some unauthorized clerics, and they put him

through a second marriage ceremony in 1810, but this attempted re-marriage was a mockery. The whole thing was a violation of the laws of the Church, and the Church has never acknowledged the second marriage as valid at all.

Marconi secured a divorce and thus he then re-married in the Catholic Church.

Marconi secured a decree of civil divorce from the state, but from the Catholic Church he secured a decree of nullity. The civil divorce broke no real bond of matrimony or marriage, but merely released the parties from any further civil obligations. The Church declared that the form of marriage Marconi went through with Miss Beatrice O'Brien on March 16, 1905, was null and void, and that both were really single people mistakenly believing themselves to be married. Nullity was proved by sworn evidence given by Marconi, Beatrice O'Brien who was a Protestant, and many witnesses. The defect in the first marriage was not that it took place in the Anglican Church but that neither party consented to a marriage until death in the Christian sense of the word. They attempted to contract marriage until they should grow tired of each other, both lacking the knowledge that such a temporary contract is not a valid Christian marriage.

Were they living in adultery, and were their children illegitimate?

Even though objectively their marriage was invalid, they were both in good faith believing their state to be lawful, and therefore they were not guilty of a sin of adultery. Nor would any children have been illegitimate, for children of a putative marriage are entitled to legitimacy.

After being refused a divorce by the civil courts, did not the Duke of Marlborough secure one from the Pope?

No. Charles Richard John Spencer-Churchill, 9th Duke of Marlborough secured a civil divorce, which was granted in 1921, and both parties, Charles, and Consuelo Vanderbilt, had married again before the case was put to Rome in 1926.

The Duke became a Catholic and promptly secured an annulment.

The Duke was a Protestant when the decision was given. Nor was it promptly given. The application was made to the Southwark diocesan court in 1925. This court, after scrutinizing all the evidence, gave judgment in February, 1926, that the first marriage was invalid from the beginning. Rome, not opposing the decision, but lest it might have been given too easily, called the case to the Holy See. The whole matter was reviewed, sworn testimony being obtained in America and England. The Holy See arrived at the same decision as Southwark and decreed nullity accordingly, six months later. You can hardly call that promptly.

Why was the Duke's first marriage invalid?

On November 6th, 1895, the Duke of Marlborough went through a marriage ceremony with an American girl, Consuelo Vanderbilt. Both were Protestants, and normally such a marriage would have been valid. However, Miss Vanderbilt had secretly promised to marry another man of her own choice, but the mother forced the girl to marry the Duke. The marriage was not a success, and they separated in 1905, by mutual consent. In 1921, they secured a civil divorce, and both married again. In 1925, the decision of the Catholic Church was sought as to whether the first

marriage had ever been valid according to Christian principles. Rome sought all the evidence possible. Miss Vanderbilt's mother deposed on oath, "I forced my daughter to marry the Duke, thinking her objections merely those of an inexperienced girl." Her aunt deposed on oath, "This marriage was forced on the girl, who desired to marry someone else altogether." Another friend of the mother deposed that "it was no question of persuasion, but of absolute constraint." Rome could not but decide that, abstracting altogether from the civil decree of divorce, the parties had never really been married at all.

It looks as if money had weight with Rome.

Not at all. Not all the money in the Bank of England would be of any avail to secure an annulment from the Church if the first marriage had ever been valid. Meantime the trial at Southwark, with three judges and two other officials, lasting three months, cost \$40 in expenses. The retrial in Rome lasted six months. There was much more expense in securing sworn testimonies from America and England, and in the number of legal men employed. This trial cost \$200 in expenses; not a very great burden to the parties concerned. Moreover, the law of the Church is that litigants bear expenses only if they are able to afford them. In the ten years between 1920 and 1930, some 120 matrimonial cases were tried in Rome. In 69 cases, the litigants paid expenses. In nine cases a nominal fee only was paid. In 39 cases, the expenses were totally remitted. Nor did the offerings make any difference in the decisions given. Sixty-six per cent, of those who paid, and 89 per cent, of those who could not pay, obtained favorable decisions.

It comes to the same thing. We Protestants get a divorce from the state whilst Catholics get an annulment from their Church.

There is all the difference in the world between the two positions. A civil divorce claims to break the bonds of a valid marriage, bonds, which the Catholic Church rigidly declares to be unbreakable. A decree of nullity does not break the bonds of a valid marriage at all. It declares that the marriage was never a true marriage and that there is no bond to break. It declares that the reputed marriage was null and void as a contract from the beginning. Had it been valid, the bond could not be broken save by the death of one of the parties.
