

By the Same Author

Dogmatic Theology, vols. I-VIII of this Series
(See *Advertisement*, above): crown 8vo.

The Kenotic Theory: Considered with particular reference to its Anglican forms and arguments: crown 8vo.

Evolution and the Fall: Bishop Paddock Lectures, 1900-1910: crown 8vo.

Theological Outlines — Three Volumes, 12mo.

Vol. I. THE DOCTRINE OF GOD

Vol. II. THE DOCTRINE OF MAN AND OF THE GOD-MAN

Vol. III. THE DOCTRINE OF THE CHURCH AND OF LAST THINGS

The Historical Position of the Episcopal Church:
12mo, paper covers.

The Bible and Modern Criticism: 12mo, paper covers.

THE SACRAMENTS

BY THE
REV. FRANCIS J. HALL, D.D.
PROFESSOR DOGMATIC THEOLOGY IN THE GENERAL THEOLOGICAL
SEMINARY, NEW YORK CITY

LONGMANS, GREEN AND CO.
FOURTH AVENUE & 30TH STREET, NEW YORK
39 PATERNOSTER ROW, LONDON
BOMBAY, CALCUTTA, AND MADRAS

1921

they are authorized to perform such normal public services in the Church as involve no sacramental functioning, and to assist the priest in pastoral work, and in practice often act as missionaries, they are not entitled to receive an independent cure of souls, but must always retain the status of assistants to ministers of a higher sacramental Order. In a vast majority of cases, the ministry of deacons is in practice temporary only, and preparatory for ordination to the priesthood.

CHAPTER IX

HOLY MATRIMONY

I. *Introductory*

§ 1. Marriage is a lawful and enduring union and cohabitation between competent persons of opposite sexes for the purpose of procreation, upbringing of children, and domestic life. The sacrament of Holy Matrimony is such Marriage between baptized persons, sanctified to a supernatural end, and involving certain Christian requirements and obligations.¹

By a lawful union is meant one that is allowable in the particular social state or states by the requirements of which the parties thereto are bound. In comprehensive terms, there are three such states, the natural, the civil and the religious or ecclesiastical. In so far as marriage is a natural union, and it always is this at least, it is subject to the physical and moral laws of nature, so far as understood. In organized society, or where civil law prevails, natural obliga-

¹ On Holy Matrimony, see O. D. Watkins, *Holy Matrimony*; J. J. Elmendorf, *Elements of Moral Theol.*, pp. 620-643; H. M. Luckock, *Hist. of Marriage Jewish and Christian*; T. A. Lacey, *Marriage in Church and State*; John Fulton, *The Laws of Marriage*; W. J. Knox-Little, *Holy Matrimony*; St. Thomas, III. Suppl. xli-lxviii; Hastings, *Dic. of Bible and Cath. Encyc.*, s.v. "Marriage"; Geo. E. Howard, *Hist. of Matrimonial Institutions*; Hyacinthe Ringrose, *Marriage and Divorce Laws of the World*.

tions and conditions are supplemented by those imposed by such law. Finally in organized religious society, natural and civil obligations and conditions are supplemented and given higher reference by religious requirements, whether of revealed divine precept or of rightly imposed ecclesiastical Canon Law.¹

In the forum of enlightened conscience, the immediate authority of which over personal conduct is paramount, any real or apparent conflict between these several lines of requirement has to be met in practice by preferring divine laws to the human, and religious and moral requirements when they are contradicted by civil laws and social customs. For example, a priest may not solemnize a marriage which the state requires him to perform, if it is forbidden either by the law of God, by that of His Church, or by natural morality. He is bound, in such case, to submit personally to the civil consequences of his refusal, when these are legally enforced; but this does not alter his duty in the particular considered.² Happily such conflicts are comparatively rare. Normally one can conform to the requirements and prohibitions of each of the three states mentioned, without thereby either doing what is otherwise unlawful or failing to do what is otherwise legitimately prescribed.

¹ On these three states, see Report of Joint Committee in *Gen. Conv. Journal of P. E. Church*, of 1886, pp. 784-785; T. A. Lacey, chh. i-iii; Wilhelm and Scannell, *Manual of Cath. Theol.*, vol. II. pp. 510-511.

² This is called passive obedience, exemplified in ancient Christian martyrdoms.

The principle here maintained — one upon which the truth and practical bearing of the catholic doctrine of Holy Matrimony depends — is this: When we learn that God has consecrated an existing institution to a special and supernatural end, and has either directly or indirectly imposed precepts in relation thereto, we are thereby committed to the obligation of accepting the theoretical and practical implications of such consecration, so far as discerned, along with the precepts thus imposed. The sacrament of Holy Matrimony represents such consecration, and is protected for its supernatural end by such precepts. And its distinctive end, implications and obligations have the highest of validities — that of divine authority — overruling lower laws that conflict.

§ 2. In sacred history Marriage has undergone three stages of development.¹ In the beginning God "made them male and female, and said, 'For this cause shall a man leave his father and mother, and shall cleave to his wife; and the twain shall become one flesh.' . . . What therefore," Christ says, "God hath joined together, let not man put asunder."² According to the primal law, therefore, one imposed upon mankind, Marriage was to be an abiding and indissoluble union; and the plain implication was that absolute divorce, followed by a substitutionary mar-

¹ See O. D. Watkins, ch. ii.

² St. Matt. xix. 4-6; St. Mark x. 6-9; Gen. ii. 18, 21-24. Cf. O. D. Watkins, ch. iii.

riage with another, was for every human estate contrary to the divine plan and will.¹

The second or Mosaic stage is described by Christ in these words: "Moses for your hardness of heart suffered you to put away your wives."² The implication here is also clear. It is twofold: that human hardness of heart, rather than God's plan, was responsible for the change; and that the Mosaic license was a passing concession in view of men's fallen condition.

The third and permanent stage was initiated by Christ's own legislation — legislation which is morally binding upon all who have come to know His authority and will in the matter. His enactment is explicitly based upon the original law of God, and repeals the license of Moses. It is most clearly set forth in the second Gospel. "Whosoever shall put away his wife, and marry another, committeth adultery against her; and if she herself shall put away her husband, and marry another, she committeth adultery."³

¹ T. A. Lacey, pp. 16-19, 34.

² St. Matt. xix. 8.

³ St. Mark x. 2-12. In the more difficult passage of St. Matt. xix. 3-10, the clause "Whosoever shall put away his wife except for fornication, and shall marry another, committeth adultery," has been taken to imply that the sin mentioned justifies absolute divorce and re-marriage. But the clause agrees neither with premise, "What God hath joined together, let not man put asunder," nor with the more coherent report in St. Mark. Of two scriptural passages on the same subject, one clear and consistent and the other difficult, the former is surely to be followed. The exception in St. Matt. has been regarded critically in three ways: (a) As referring to pre-marital unchastity, making the union null and void *ab initio*

A chief purpose of the primal law, thus reenacted, was clear to one Old Testament prophet at least — that the Lord "might seek a seed of God."¹ The true seed of God, of course, is Christ and those who have become children of God in His Body by adoption and grace. The primary divine purpose for which Matrimony is made holy, therefore, is that subjects of this adoption and grace may be brought forth and trained for their appointed sonship in Christ. Accordingly, a close relation is made to exist in the Christian covenant between the marriage union and the union betwixt Christ and His Church, wherein the children of God are gathered. St. Paul sets forth this interconnection.² The fact that the parties in Christian Marriage are members by Baptism of Christ's Body leads him to perceive a connection of their union with the great mystery of the union between Christ and His Church; and the right use of Holy Matrimony ministers to the enjoyment of this mystery and to the extension of such enjoyment to successive generations.

(Von Döllinger, *First Age of the Church*, App.); (b) As textually corrupt, not being fully quoted by any ante-Nicene writer and not used anciently as basis of license to re-marry after divorce for adultery (Watkins, pp. 152-167); (c) As probably due to misunderstanding by the Gospel writer of Christ's teaching (S. L. Tyson, *The Teaching of our Lord as to the Indissolubility of Marriage*). In any case, the apparent exception ought to be rejected in view of New Testament teaching at large. See also T. A. Lacey, pp. 23-25; H. J. Wilkins, ch. ii; A. Plummer, *On the Gospel . . . St. Matthew*, pp. 81-82, 259-260; D. Stone, *Divorce and Re-marriage*, note XI.

¹ Mal. ii. 14-16.

² Ephes. v. 22-33.

* *Gore's New Commentary* (John C. H. Gore) in loc.
"Very difficult & almost certainly corrupt. Various attempts -- none are satisfactory. -- The Jargon paraphrases -- It is best to admit that -- the original sense [is] lost!"

It is only in this revealed connection that the Church's teaching concerning Holy Matrimony, and its vital place in the Christian system, can be rightly understood and adequately estimated. A common and spiritually disastrous error has been to disregard this connection and to treat Marriage, even when consummated between baptized Christians, as wholly determined in significance and effect by its natural and civil status and requirements. Even theological writers often fail to discern the full meaning of God's consecration of this estate to a supernatural end, and consequently overlook the vital dependence of the Church's success in its God-given mission upon due preservation of the distinctively religious nature and purpose of Christian Marriage.

§ 3. The secret of many disastrous vagaries and abuses in connection with mixed marriages, prohibited degrees and divorce lies in this isolation of the subject of holy Matrimony from its interpretative context. The history of the Church displays much inconsistency in canonical legislation and practice *ad rem*, although the New Testament doctrine on the subject has gained abundant acknowledgement in every part of the Church and in every age. We cannot tell the long and complicated story of Holy Matrimony in the Church. But it is easy to see that, human nature continuing to be what it is, and the social embarrassments of consistently enforced Christian discipline in this matter being so grave as they are, more irregularities and weaknesses are to be ex-

pected in handling matrimonial questions than in almost any other branch of ecclesiastical regulation.¹

The overshadowing influence of a half-converted imperial court weakened the Marriage discipline of the Eastern Churches at an early date, and their general record in this matter is not edifying. Theoretically at least the Roman Church has consistently adhered to Christ's teaching. But in practice the technicalities of dispensations, nullities and the like have frequently been used to justify exceptions.² The Church of England is clearly sound in its doctrine and Canon Law, but notable deviations from consistency in practice, brought about by special bills in Parliament, have been acquiesced in; and to-day that Church, because of its connection with the state, has very grave difficulty in maintaining the integrity of its matrimonial discipline in the face of recent divorce legislation. The American Church, like the English, inherited the Western Canon Law,³ which forbids the remarriage of a divorcee while the other party lives. But in 1868 the General Convention

¹ On the history of marriage and divorce in the Church, see H. J. Wilkins; H. M. Luckock, Pt. I; T. A. Lacey, ch. iv; O. D. Watkins, ch. vii.

² For the existing Roman Canon Law, see *Codex juris canonici*, Lib. III. Tit. vii; and H. A. Ayrinhac, *Marriage Legislation in the New Code of Canon Law*.

³ Anglican Canon Law includes so much of the Western (Roman) Canon Law as had been received in England up to the commencement of the reformation, and was "not contrariant or repugnant to the laws, statutes and customs of this realm," etc. (Statute of Henry VIII. 25, c. 19). See *Ch. Q. Review*, Jan. 1898, art. X.

enacted a canon in which it was provided that such prohibition "shall not be held to apply to the innocent party in a divorce for the cause of adultery."¹ Several efforts have been made to remove this proviso, but no more has been accomplished than to qualify it with conditions designed to prevent haste and collusion.² We should remember that the American Church is overshadowed by denominational bodies that have very lax ideas of divorce. It is also greatly embarrassed by evil divorce legislation in most of the states, and by having to deal with many cases of divorcees remarried previously to their entrance into the Church and with numerous mixed marriages of its members. Inevitably the lax ideas of American society at large infect the minds of many Churchmen.

Throughout the Anglican Communion it has fortunately been possible for those who have sought to maintain the teaching of Christ and of St. Paul to fall back on the plain language of the Marriage service. And it is here that Anglican doctrine concerning Matrimony is officially indicated. In the opening address the congregation is taught to consider Holy Matrimony as "instituted of God in the time of man's innocence," and as "signifying unto us the mystical union that is betwixt Christ and His Church." In the pledges demanded of the parties to be married it is required of each that he or she will keep only to

¹ *Digest of the Canons of the Protestant Epis. Church of 1868*, Tit. II. Can. 13.

² *Canons of 1919*, 42, § III.

the other "so long as ye both shall live." The same life-long obligation is again accepted in the giving of troth, "for better for worse, for richer for poorer, in sickness and in health . . . till death us do part." The man has to declare that he weds the woman in the name of the Trinity, thus making God a party to the achievement of the union. The minister embodies these sacred obligations in a prayer to God for their faithful fulfilment, and proceeds to apply the law of Christ to the union which he is solemnizing by saying, "Those whom God hath joined together let no man put asunder." No trace can be found in the service and terms of union of the notion that Marriage is merely a contract, which can be lawfully abrogated by mutual consent or by legal process. On the contrary, there is explicit witness and agreement that the union is of divine making and significance, and is indissoluble by man.¹

§ 4. Holy Matrimony has always been regarded by the Church as eliciting a special divine blessing and grace. Accordingly, when it was coördinated with other visible means of grace under the sacramental category, no innovating doctrine concerning it was introduced, but merely a development of scientific theological terminology. It is a sacrament according to this terminology because it is a visible means by which divine and sanctifying grace is elicited. It is not, of course, a sacrament in the narrower application of that designation to those particular means

¹ On divorce, see § 13, below.

of grace which are generally necessary for salvation, and the signs of which have been determined by our Lord in the Gospels. But it is a sacrament in the sense above indicated, in the sense in which it has thus been described for centuries in both the Eastern and the Western Churches.¹

On the one hand, Holy Matrimony has a determinate outward sign, the completion of which is properly verifiable. This sign consists of lawful Marriage between baptized Christians, and the variety of laws which control the accepted methods of Marriage in different lands, and under different legal and social conditions, in no wise reduces the determinateness of this formal part of the outward sign. Everywhere the event of lawful Marriage is susceptible of recognition and verification, and in its lawful accomplishment lies the formal element of the outward sign. But its sacramental value and effect depends upon the Baptism of both parties, because no unbaptized person can be a subject of sacramental grace other than that of Baptism itself. Accordingly, when Marriage is achieved between persons one or both of whom are unbaptized, their union does not constitute the sacrament of Holy Matrimony until both have been baptized. In such cases, subsequent Baptism completes the outward sign—not less really because an interval of time separates the accomplishment of its two elements, those of Marriage and of baptismal status.²

¹ Cf. *The Church*, pp. 296–298.

² *Idem*, p. 339.

On the other hand, Holy Matrimony confers or elicits sanctifying grace. This is an inevitable inference from the fact that, as both Scripture and catholic doctrine assert, God Himself unites the parties in a significant relation, and with a supernatural end. The action of thus consecrating the Marriage union, apart from any added grace which He may be thought to impart to its human subjects, is itself sanctifying. But if He thus consecrates the union to a supernatural end, we are driven to believe that He also affords in it whatever aid of supernatural grace its participants may need in order to fulfil that end. Revealed doctrine does not, however, enable us to define this grace more narrowly.¹

II. *Essentials and Obligations*

§ 5. We have summarized the essentials of the outward sign of Holy Matrimony as consisting of lawful Marriage and the Baptism of its parties. Whatever may be the temporal order of their fulfilment, both of these conditions are necessary to constitute a sacramental union; but when both have been fulfilled, the sacrament has been validly accomplished.

A lawful Marriage here means one which when once achieved is recognized by the laws under which it

¹ If Matrimony effected no more than a distinctive application of baptismal grace to a specific end, it would be sanctifying—sacramental. On the grace of Matrimony, see T. A. Lacey, pp. 50–54; O. D. Watkins, pp. 74–76, 137–150; W. J. Knox-Little, pp. 61–68; Jos. Pohle, *The Sacraments*, vol. IV. pp. 168–171.

falls as valid. A Marriage may have been contrary to laws designed to regulate its performance, but if these irregularities or illegalities do not under the law nullify the consummated Marriage, it is a lawful Marriage in the sense here meant. But the law which has to be considered includes divine as well as human law,¹ and ecclesiastical as well as civil law — all relevant laws to which the parties married are properly subject. In practice this means that, in order to be lawful in the sense required for a sacramental union, a Marriage must be such as will be recognized as valid by both the state and the Church — that is, the particular civil and ecclesiastical authorities to the jurisdiction of which the parties concerned are responsible according to the will and providence of God. It is true that actual submission to the spiritual jurisdiction of the Church is properly voluntary, and ought not to be coerced; and an exclusively secular Marriage is not adulterous by virtue of its being secular. The point is that its being *sacramental* depends upon its being at least valid according to ecclesiastical as well as civil law. In civilized nations the conditions of validity which satisfy civil law will usually satisfy ecclesiastical law, although there are unhappy exceptions, for example, in connection with forbidden degrees and divorces.²

¹ "For be ye well assured, that if any persons are joined together otherwise than as God's Word doth allow, their marriage is not lawful": Marriage Service.

² T. A. Lacey, chh. iii-v, *passim*.

The validity of Marriage in one nation is not dependent upon the laws of another nation, and that of Marriages in one autonomous part of the Catholic Church is not dependent upon the Canon Law of another part thereof. Anglican Marriages, for example, do not have to conform to distinctively Roman Catholic requirements in order to be ecclesiastically valid and sacramental. To think otherwise is to import an unreasonable confusion into the whole subject. If the catholic claim of the Anglican Communion is valid in general, it is valid in the particular of regulating and recognizing sacramental Marriage, subject to ecumenical doctrine and precept.

As might be expected, in view of all that has been said, the conditions necessary to be fulfilled in order that a Marriage may be lawful in the sense required for its sacramental status vary in different lands and in different parts of the Catholic Church. The ideally desirable unification of marital requirements everywhere is not within the range of practical possibilities. But those who marry do not in practice have to reckon with foreign laws, and the consummation of lawful Marriage is not ordinarily difficult, either *in se* or in subsequent determination of its validity. That is, the sacrament of Holy Matrimony has a readily verifiable outward sign.

All requirements of lawfulness and validity fall under the following heads: (a) The parties thereto must be legally competent, there being no nullifying impediments; (b) The method of achievement of the

union must be valid. In particular, voluntary consent must be signified in a lawfully recognized manner; and, wherever the laws thus condition validity, the Marriage must be officially performed or solemnized, and in the manner required by them.

Holy Matrimony is more than a legal contract, but its contract aspect is essential, and the lawfully signified consent of the parties to be married is determinative both positively and negatively. The parties married are the earthly ministers, and the function of one who, in common parlance, "performs the ceremony" is that of giving legal sanction to the consenting action of these parties, and, in the case of a priest, of solemnizing their union before God. We say that the parties married are the *earthly* ministers, but a sacramental union has for its chief minister God Himself, who alone can make them man and wife in the sacramental sense.

§ 6. A Marriage is a contract, but it is far more; for it initiates an estate the fundamental conditions and obligations of which antedate the contract and can be neither annulled nor modified by the will of the contracting parties. Moreover, the contract is not a private one, and the laws against clandestine marriages register the protest of society against its being thus treated. God is concerned, since even in the order of nature Marriage plays a vital part in the fulfilment of His plan. Society at large is concerned, because its moral welfare cannot be safeguarded unless it can protect Marriage from ill-advised

exploiting and abuse. Society is built upon, and determined in moral complexion by, the family, which is its unit. In particular, the kindred and neighbours of the parties married are concerned, for the results of Marriage affect them in ways that are too serious to be unnecessarily disregarded.¹

Accordingly society in civilized lands concedes to parents the authority to withhold consent to the Marriages of their offspring during minority, and the moral right of parents to be consulted at least continues even longer. They are the immediate agents of human society in safeguarding its interests in the Marriages of their children. Their authority expires in due course, and their subsequent moral right to be consulted does not nullify the right which children acquire at majority to marry according to their own choice; but, subject to these limitations, the authority and influence referred to cannot be put aside consistently with either the welfare of society or the will of God.²

If parents are thus set to prevent their children from marrying hastily and ill-advisedly, they are also responsible positively for preparing their children by wise education and adequate instruction for their prospective task of choosing their life-partners and of entering the Marriage estate intelligently and right-

¹ On all which, see W. J. Knox-Little, pp. 3-11 and chh. xv, xx-xxi.

² On parental authority *ad rem*, see G. E. Howard, vol. I. *passim*; J. J. Elmendorf, p. 629; Thos. Slater, *Moral Theol.*, vol. II. pp. 257-259.

eously. Ill advised prudery and timid reserve on the part of parents must result in grave evils. The children will gain sexual instruction at an early age in any event; and whether it shall be trustworthy and wholesome instruction or vicious and morally misleading depends almost invariably upon whether the parents exercise wise and courageous forethought or are supinely negligent. Finally, parents have it in their power to determine to an important extent the quality of the intimacies which their children acquire, and thus indirectly to promote a suitable and worthy choice by them of their life-partners. It is chiefly along such lines that their authority can be exercised effectively; for when that type of mutual affection which normally leads on to Marriage has once been developed, the power of parents to change the ultimate result is seriously diminished, and even during minority can be successfully exercised only at the cost of grave distress — perhaps sinfully rebellious discontent. Marriages of convenience, and such as are brought about by arbitrary parental management, regardless of the wills and affections of the parties directly concerned, are of course unjustifiable, and rarely result in due fulfilment of God's purpose in Holy Matrimony.

§ 7. The obligations incurred in the sacrament of Holy Matrimony¹ include those which pertain to

¹ On marital obligations at large, see W. J. Knox-Little, chh. xii-xiv; W. W. Webb, *Cure of Souls*, pp. 165-169. Cf. 1 Cor. vii. 3-5; Ephes. v. 22-23; vi. 1-4.

Marriage in the natural and civil order; but these are to a degree transfigured in reference and quality, and are significantly enlarged, by the sacrament. Although the classification is a cross-division — its branches partly overlapping — all these obligations may be brought conveniently under three heads: mutual parental and religious, the last named colouring and enlarging the other two with determinative effect.

(a) In the natural order the first mutual obligation of the Marriage estate is the procreation of offspring, for this is the primary natural end of the conjugal union. The complex demands and pleasures of modern life have tempted many to evade this obligation; and various grave sins prevail, of which abortion or procuring premature gestation is the climax.¹ No doubt temperate marital intercourse is permissible for cherishing and expressing mutual affection, as well as for procreation. But every imaginable artifice for indulging in such intercourse without permitting nature to take its normal resulting course is sinful. Sufficient reasons may exist in particular cases for not producing offspring; but the only virtuous course in such event is self-restraint and such regulation of the frequency of indulgence — entire abstinence, if necessary — as will meet the difficulty without interference with nature's processes. Marriage does not legalize lust, but has a contrary end.

¹ Hastings, *Encyc. of Relig.*, s.v. "Foeticide"; *Cath. Encyc.*, s.v. "Abortion."

It leaves the laws of temperance, mutual allowance and self-control in unabated force. And no other use of sexual organs is lawful except that which is practiced in a chastely regulated Marriage union. All this is of the utmost gravity for the physical, moral and spiritual welfare of mankind.

(b) Mutual fidelity is also of the gravest necessity; and monogamy, or permanent and exclusive union of one man and one woman so long as both are alive, is a fundamental Marriage law of God.¹ Every species of carnal indulgence between the wife and any other man than her husband, or between the husband and any other woman than his wife, is mortally sinful — not less so for one partner than for the other.

(c) A third mutual obligation is the cultivation of mutual regard and affection. Mutual affection should indeed be the antecedent of Marriage, for without it the obligations of married life cannot properly be fulfilled. In particular, a loveless Marriage cannot exhibit the type which God wills it to exhibit of the union between Christ and His Church, and the Marriage union is an appointed school for the practice of Christian charity. This obligation involves for its due fulfilment that the man and his wife should spend their earthly days together. Mutual absences should, if possible, be exceptional, and should not be unduly prolonged.²

¹ Cf. T. A. Lacey, pp. 12-16; O. D. Watkins, ch. ix.

² Sailors at sea and travelling agents cannot, of course, spend their days at home.

(d) The common enjoyment of earthly goods and advantages is also obligatory. The legal title and control of property may indeed be rightly vested in one or other of the parties. But the enjoyment of all wealth possessed by either should be mutual and equal.¹ The happiness of each should be promoted by the other, and the twin virtues of unselfishness and helpfulness should be practiced by each towards the other — “for better for worse, for richer for poorer, in sickness and in health.”

(e) In value before God, and in level of being and destiny, husband and wife are equals. Moreover, the ineffaceable difference of functions which nature and grace alike assign severally to them is not intrinsically speaking an inequality. The glory of a wife and mother is one thing and that of a husband and father another; but both are equally precious and honourable in the scale of essential values, and each is dependent upon glad adjustment to the other for its own perfection. The two are complementary, and their diversity is part of their several values, of the common welfare of the husband and wife, and of their naturally assigned functioning in the procreation and successful upbringing of children. When these fundamental truths are practically kept in view, the law of God and of man, which undeniably makes the husband to be the working head of the family, is not felt

¹ Such is the real intent of the man's marital pledge, “with all my worldly goods I thee endow.” No legal transfer of title is involved.

by the wife as involving for her a servile status, nor by the husband as exalting him above his wife. Rather it is perceived to be a necessary safeguard against dualism in the family and the method of unity between equals which the complementary gifts of the sexes require. The obligation to preserve the husband's executive status in the Marriage union is clearly taught in Scripture; and no change of social conditions can make a disregard of this obligation otherwise than prejudicial to the natural and supernatural ends for which Marriage is instituted.¹

§ 8. The parental obligations of Holy Matrimony² may be summarized under four heads.

(a) First in temporal order is the eugenic obligation to produce healthy offspring. If there is previous reason to believe that under given circumstances this cannot be done, the method of self-restraint, with such degree of abstinence from marital intercourse as is necessary to avoid having offspring, should be pursued.³ But, in view of the natural purpose of Marriage, if this difficulty is inveterate, and is known before Marriage, the proposed Marriage union should not be consummated. Modern Eugenics is associated, no doubt, with secular and essentially pagan ideals. But it represents also a fundamental moral and Christian right of children to be started in life with whole-

¹ 1 Cor. xi. 7-12; Ephes. v. 22-33.

² On which, see W. W. Webb, *op. cit.*, pp. 161-164; Thos. Slater, vol. I. pp. 275-283; *Cath. Encyc.*, s.v. "Parents."

³ Cf. pp. 287-288, above.

some bodies and minds. Wittingly or carelessly to inflict hereditary diseases upon offspring, and to connect prejudicial conditions and abuses with the process of procreation and pre-natal growth, are not less gravely sinful because modern science has first brought into clear light certain of the natural laws of wholesome procreation.¹

(b) Children are also entitled to as wholesome a physical upbringing as the parents can lawfully provide. This means nourishing food, proper clothing, healthy surroundings, and proper education and training in the laws of health. It means also the promotion of the children's real happiness in such degree as is consistent with providential circumstances and their proper moral and spiritual development. And the children should not be forced avoidably into the labour of earning their living before they have attained sufficient physical maturity.

(c) An additional reason for avoiding a hasty forcing of mature responsibilities upon offspring is their right to such educational equipment, mental, moral and spiritual, as their parents can reasonably afford. A fair chance to enjoy the higher advantages of this world's school of life is an elementary right of all — a right limited in the case of children only by the legitimate means and opportunities of affording these advantages which their parents possess.

(d) Finally, parents are under obligation to facilitate such permanent settlement in life as will be most

¹ On modern Eugenics, see *Cath. Encyc.*, vol. XVI. pp. 38-40

conducive to their children's general welfare and abiding happiness. Their own position and temporal advantages necessarily determine and limit the responsibilities of parents in this direction; and they have no legitimate authority or moral right to interfere with the natural bent and abiding choice of their children in determining their life-vocations.

§ 9. Our analytical survey of the obligations incurred in Holy Matrimony may seem more appropriate to Moral than to Dogmatic Theology; but the end in view is strictly dogmatic — to enforce the Christian doctrine that Holy Matrimony is necessarily a permanent union, indissoluble except by death. It is necessarily this, for upon no other basis can the obligations involved in Marriage, as we have been describing them, be justly and adequately fulfilled. And the religious obligations of Holy Matrimony to which we now come accentuate its indissoluble nature and sanctity to a striking degree.

(a) The supernatural end of Holy Matrimony is that its divine Founder may "seek a seed of God" — may obtain subjects of adoption and grace in His Church, which is the Body of Christ.¹ So it is that the ultimate purpose for which God makes of twain one flesh is hindered of fulfilment when parents neglect or repudiate the obligation involved in this divine purpose of their union, which is the religious education and training of their children. There is no more

¹ Mal. ii. 15.

dangerous heresy than that which leaves children to purely secular influences on the plea that their right to choose their religion for themselves when they come to mature years ought not to be prejudiced. If catholic Christianity is true the moral obligation to accept it is fundamental, and no really sincere parent believes that he should refuse to train his children morally for fear of prejudicing their freedom of moral choice in later years. God gives us children that we may bring them to His grace, and no plea for neglect of the educational measures needed to predispose the young towards their Christian calling can rightly be regarded as otherwise than a satanic illusion. To provide specific education in the doctrines and duties of Christianity as they are taught by the Church and confirmed by Scripture is as obligatory for parents as is any other parental duty.

(b) For the same reason parents are under obligation to have their children baptized into Christ's Church as soon as practicable, and in due course to bring them to Confirmation, in order that they may receive the equipment divinely provided for them of the sevenfold gifts of the Holy Spirit. When this obligation is rightly fulfilled, that is, under the conditions of wise and careful religious training, the personal liberty and integrity of the children involved is not at all undermined, but rather is enhanced and enlightened. The predispositions which proper education produce are the normal conditions of human progress and of personal liberty.

(c) These obligations cannot be properly fulfilled in a family wherein religious unity is lacking.¹ For this reason, if for no other, agreement in acceptance of true religion — the religion of Christ and His Holy Catholic Church — is plainly an obligation of Holy Matrimony. Christians are coming to realize the gigantic evils of Christian disunity at large; but nowhere do these evils more directly undermine the eternal welfare of souls than in a family of mutually discordant religious beliefs and practices. The clear note of saving truth is there made uncertain; and the compromises and comities which are frequently adopted for the sake of peace result necessarily in deadening religion, and usually are followed by the upbringing of a godless generation. There is a pressing call to-day for bolder and more persistent teaching in this matter than has hitherto been customary.

III. *Impediments and Divorce*

§ 10. A lawful Marriage in the sense here meant is one which, when it has been consummated, is recognized both in civil and in Canon Law to be valid and binding. Such a Marriage may have been in some respect unlawfully consummated, but if allowed to stand it constitutes valid Marriage; and if the parties are baptized, the union is sacramental, even though the unworthy manner of its consummation suspends until repentance the spiritual benefits of

¹ Cf. § 11 (c), below.

the sacrament. The impediments of Marriage¹ are of two kinds: those which make Marriage irregular without nullifying it, and those which nullify it altogether.

Nullifying impediments, *impedimenta dirimentia*, arise either from the incompetence of one or both of the parties concerned or from some invalidating circumstance of the Marriage contract. In some cases the impediment can be remedied, but unless and until it is remedied the Marriage is null and void *ab initio*. Yet the discovery of such an impediment by the parties concerned, while it makes their subsequent carnal intercourse formally adulterous, neither wholly releases them from temporal obligations nor permits them to marry otherwise until a declaration of nullity has been lawfully made. The moral welfare of society and of the Church of God requires that the freedom to marry after such a complication shall be lawfully and publicly made clear in both Church and state before its exercise.

Nullifying impediments which arise from human legislation are, of course, subject to change, whether of enlargement or of reduction, by the legislative authority which imposes them; and they differ in various civil and ecclesiastical jurisdictions. Those, however, which are due to divine law or to the na-

¹ On which, see O. D. Watkins, pp. 103-107, 136-137 *et passim*; J. J. Elmendorf, pp. 629-640; Blunt, *Dic. of Theol.*, s.v. "Marriage," VI; W. W. Webb, *op. cit.*, pp. 240-251; St. Thomas, III. Suppl. 1-1xii; *Cath. Encyc.*, s.v. "Impediments."

ture of things cannot be changed; and they cannot be disregarded without sin. The following are examples of nullifying impediments.

(a) Error as to identity of one or other of the parties to the Marriage nullifies the union, because no true mutual consent is accomplished. But voluntary acquiescence after the identity of both parties has been mutually ascertained validates the union, and precludes any subsequent contrary plea on the ground of error.

(b) For the same reason compulsion, or such fear as is really equivalent thereto, nullifies the union, subject to the same proviso that subsequent free acquiescence remedies the impediment.

(c) Consanguinity and affinity, or relationship either by blood or by Marriage, within forbidden degrees nullifies the union, because parties thus related are incompetent to marry, and such unions are incestuous and adulterous.¹ Unhappily civil and ecclesiastical legislation does not wholly agree in listing the prohibited degrees. Christians are bound, however, to observe both forms of legislation, and this precludes them from taking advantage of permissions of the state to marry within degrees prohibited by the Church and *vice versa*. For example, many states permit a man to marry his deceased wife's sister, but

¹ On consanguinity and affinity, see O. D. Watkins, ch. x; Blunt, *Dic. of Theol.*, s.vv. "Degrees Forbidden" and "Affinity"; W. J. Knox-Little, ch. xi; A. C. A. Hall, *Marriage of Relatives* (Episcopal Charge, 1901).

the law both of God and of His Church makes such a Marriage unlawful for Christians.¹ On the other hand, the Anglican Communion permits own cousins to marry, but in certain states such unions are forbidden, and are there unlawful for all. The Roman Church has a more extensive list of prohibited degrees than either the Anglican Church or civil law in a majority of states.² Only Roman Catholics are bound by that list. The Anglican list is designed to include only the specifications and implications of the Levitic law. Because the law of God makes a man and his wife to be one flesh, and for morally safeguarding the intimate associations apt to occur between a married person and the kindred of his or her partner in Marriage, the Church conforms the list of prohibited degrees of relationship by Marriage, item by item, to that of relationship by blood.³ The frequent prohibition by modern states of Marriage between own cousins is based upon eugenic grounds; and even where this prohibition does not exist, careful regard for eugenic requirements ought to be observed before entrance upon such unions.

¹ F. W. Puller, *Marriage with a Deceased Wife's Sister*; O. D. Watkins, pp. 648-656.

² *Cath. Encyc.*, s.vv. "Consanguinity," and "Affinity"; H. A. Ayerhac, *op. cit.*, pp. 116-178.

³ The Anglican list is given in the English Prayer Book and reaffirmed, until contrary legislation (never enacted), by the American House of Bishops in 1808. It includes all relationships of blood and of marriage in direct line ascending and descending, and in collateral lines as far as own cousins exclusive.

(d) Impotence, or physical inability of one or other party to perform his or her part in procreation, affords basis for a legitimate plea of nullity on the ground of incompetence to fulfil the Marriage contract. But such impotence must be initial and irremediable — not first incurred at a date subsequent to the physical consummation of the union. It must also be pleaded within a reasonable time.

(e) Immature age, prior to puberty, is a nullifying impediment for the same reason;¹ and parental consent does not usually validate a Marriage thus impeded. The recognition of this and of the last mentioned impediment clearly implies that physical intercourse is necessary for a full consummation of the Marriage union. The Roman Church, indeed, regards itself as justified, when sufficient reasons exist, to declare any Marriage null and void which has not thus been consummated.

(f) Existing Marriage, validly accomplished, necessarily nullifies a subsequent Marriage of either party while the other lives. By the teaching of Christ and by catholic doctrine this impediment is absolute, if the existing Marriage is sacramental, because death alone can dissolve it. In other cases, the impediment is moral, and is based upon what Christ describes as the primal law of God. Civil divorce, therefore, does not for Christians make a subsequent

¹ Justinian's *Code*, v. 60, 3, forbade Marriage under the age of fourteen for males and of twelve for females; and such is the Western Canon Law. See O. D. Watkins, pp. 128-130.

Marriage of either party morally lawful in any case.¹

§ 11. Various impediments make a Marriage either irregular or inexpedient but do not, in most jurisdictions at least, nullify it when once fully consummated.

(a) Disparity of social status and culture, especially if racial inequality is involved, ordinarily makes Marriage inexpedient, because of the hindrance afforded to mutually congenial relations and to the relations of each party with his or her own social equals. There may, of course, be exceptions which justify themselves. Difference of caste in certain lands is a legal bar to Marriage, and some states forbid Marriage between one who is free and a slave.

(b) An elopement, even where both parties have attained legal majority, makes the ensuing Marriage irregular; but does not invalidate it, unless either the consent of the abducted party is nullified by force or by equivalent fear or, in case of minors, parental consent is withheld. In all Marriages of minors whose parents are dead, the consent of legal guardians is necessary for validity.

(c) Clandestinity, or failure to have an official agent, civil or ministerial, present to give public sanction to the Marriage, makes it irregular and highly inexpedient. In some jurisdictions such unions are also unlawful and invalid.²

¹ Cf. pp. 273-275, above, and § 13, below.

² Roman Canon Law treats as clandestine any Marriage not

(d) A duly given religious vow of chastity ought always to bar the way to Marriage, unless proper dispensation is obtained, but does not invalidate it either in the Anglican Communion or in a majority of civil states.

(e) As has been shown, disparity of worship, *disparitas cultus*, or difference of religious faith and practice, inevitably prevents an adequate fulfilment of the religious obligations of Matrimony, and is therefore a serious impediment, for these obligations spring from the revealed will of God.¹ If one of the parties is unbaptized, and until this defect is remedied, the union is non-sacramental.

(f) It is contrary to ecclesiastical precept, and inconsistent with loyalty to Christian discipline, to be married without grave necessity during the more solemn seasons of public devotion in the Christian year.² The intense preoccupation which inevitably attends Marriage is highly prejudicial to the due observance of these seasons.

§ 12. The obligations and impediments of Matrimony, as we have endeavoured to describe them,

contracted before the proper priest and two witnesses. H. A. Ayrinhac, *op. cit.*, p. 232.

¹ Cf. § 9 (c), above. Strictly speaking, disparity of cult means that one of the parties is an infidel or unbaptized. But in principle it includes "mixed marriages" between those of different Christian Communions.

² Bishop Cosin specifies (a) from Advent Sunday until eight days after Epiphany; (b) from Septuagesima until eight days after Easter; (c) from Rogation Sunday until Trinity Sunday.

will seem formidable to those only who do not sufficiently consider the degree to which many vital interests, social, moral and spiritual, depend upon careful protection of the Marriage union from abuse.

This union affects many relations and interests, and fundamental elements of right demand that society, both civil and religious, shall have duly recognized part in providing that it be not entered into hastily, passionately and capriciously, or without regard for the sacred obligations involved — to God as well as to man, to unborn children as well as to each other, and to the several social circles affected, whether immediate or remote. Marriage is not, and cannot be, a private affair betwixt the two who are most directly concerned. The whole social order is to some degree involved in every Marriage, and more than one generation of human beings as well.

§ 13. It is in the light of such considerations that we ought to consider the troublesome subject of divorce.¹ There are two kinds of civil divorce: (a) *a mensa et toro*, or separation from bed and board without right to remarry; and (b) *a vinculo*, or absolute divorce with right to re-marry.

The catholic doctrine here maintained is that, while divorce *a mensa et toro* may in certain cases be necessary for the legal protection of one or other

¹ On divorce, see §§ 2-3, above, and refs. there given. See also D. Stone, *Divorce and Re-marriage*; Chas. Gore, *The Question of Divorce*; F. E. Gigot, *Christ's Teaching Concerning Divorce*; *Cath. Encyc.*, Hastings' *Dic. of Christ*, and Blunt's *Dic. of Theol.*, q.vv.

party and of the children, if there be any, absolute divorce, when followed by re-marriage during the life-time of both of the original parties, is consistent neither with the primal law of God, with the indissolubility of Holy Matrimony which Christ taught, with the obligations to offspring that are involved, nor with the moral welfare of society at large. History shows that a notable increase of divorce in a nation has normally been attended by, and has hastened, that nation's decadence and ruin. The abiding sanctity of the family and of domestic life is the *sine qua non* of moral civilization; and this sanctity absolutely depends upon the assurance that the Marriage union, once validly consummated, is not to be nullified except by death. The re-marriage of divorcees while the other parties live is consecutive polygamy, and its degrading effects upon society cannot be prevented or remedied by civil sanction of it. Public scandal may indeed be lessened by such sanction, but at the cost of defiling the social conscience, and of opening gateways to legalized lust. The evidence for such a conclusion is very abundant.

Divorce *a mensa et toro* in exceptional instances is indeed a necessary means of protecting Marriage itself from hopeless degradation and one or other of its participants from unendurable conditions; but to legalize re-marriage in such cases, while both parties live, is to intensify instead of remedying the defilement of Marriage. The plea that the innocent party ought not to be punished by being debarred from what

in many instances appears to be the necessary means of subsequent well-being is specious but morally indefensible. The innocence of the injured party does not, and cannot, change the fundamentals of social morality; and misfortune, however serious and enduring, cannot righteously be remedied by unrighteousness. The innocent party may be a proper subject of sympathy and of charitable provision, but cannot be exempted from moral law *ad rem* without disastrous results to the society which legalizes the exemption. The moral order works slowly, no doubt, but its laws sooner or later assert their authority by ruining any society that defies them. In all its forms polygamy, whether coincident or consecutive, either prevents or upsets any high moral development of the nation which allows it. In plainer terms, the privilege of carnal intercourse with more than one living person cannot be granted either coincidently or consecutively without hopelessly perverting the divinely instituted purpose of Marriage.

But the immediate moral aspects above referred to do not stand alone. The children have an infeasible right to enjoy the advantages of uninterrupted home life and of parental care, both secular and religious; and the consequences of divorce and re-marriage are fatal to the enjoyment of such right. Other members of society who retain a righteous conception of social relations are entitled to protection from the grave social embarrassments which the re-marriage of divorcees engenders. The Church, in

particular, is pledged faithfully to advertise and promote both the natural and the supernatural ends of Marriage, as God has revealed them. For it to sanction the re-marriage of divorcees while the other parties live is to be unfaithful to trust.

Very difficult questions of ecclesiastical discipline arise from the fact that the Church has often to deal with practically irreparable situations, created by previously accomplished divorce and re-marriage and frequently complicated by the existence of subsequent offspring. In such cases, individual souls have to be considered — their sin being in many instances one of ignorance. Hasty and arbitrary judgment and action is liable to convert a sin of ignorance into formal defiance of God's law and thus to have spiritually fatal results. Accordingly there is sometimes need that the clergy observe an attitude of official non-cognizance of accomplished facts and situations. The bishop's counsel should be sought in such matters.¹ But the limiting principle remains, that no priest can rightly solemnize the re-marriage of divorcees or commit himself to a sanction or approval of such re-marriages, while the other parties live. In dealing patiently with accomplished facts and conditions among those whose errors have been committed in a lower and not adequately Christian state of knowledge, the priest has God's example in the old covenant to follow; but he cannot lawfully sanction as Christian what he thus

¹ This is required by the American Canon 42, § IV, Digest of 1919.

ignores for the sake of not hopelessly repelling those for whom Christ died.

One alleged exception to our general contention has to be reckoned with — the case of those who are legally divorced from a non-sacramental Marriage, such Marriage not possessing the absolute indissolubility of sacramental unions. We have to acknowledge, of course, that non-sacramental unions have not the *intrinsic* indissolubility of sacramental Holy Matrimony; and if we reject the right of Christians to re-marry after purely civil Marriage and divorce, we have to do so on other than sacramental grounds. The writer maintains that Christians are under the primal law of God, which Christ reënacted for them, and that, quite apart from sacramental considerations, this primal law forbids re-marriage under any circumstances until the death of one of the original parties. A Christian is not morally free, therefore, to re-marry, after divorce from a non-sacramental union, until the other party dies; nor is a priest free to solemnize such re-marriage.

St. Paul is often quoted in support of the contrary opinion, but his language is not explicitly pertinent.¹ He says of the Christian convert whose heathen partner has departed from him or her, that he or she is not bound in such case. He does not specify in what respect or degree the binding is annulled. He may refer simply to cohabitation, having in mind what is called divorce *a mensa et toro*, for he does not say that

¹ 1 Cor. vii. 12-16.

the Christian party involved is free to re-marry; and the failure to say so is the more significant because when, in the same chapter,¹ he speaks of the different kind of unbinding accomplished for a wife by the death of her husband, he is careful to specify that she is free to re-marry. In this, as in other scriptural exegesis, the meaning of an obscure passage must be ascertained in the light of other pertinent passages that are free from ambiguity; and St. Paul is clearly committed to our Lord's teaching, that according to the primal law of God for mankind, binding upon Christians, death alone licenses those who have once been married to marry again.²

¹ In verse 39.

² On the so-called Pauline privilege, see T. A. Lacey, pp. 21-22. The usual opinion of ecclesiastical writers is contrary to the view here adopted, as is proved by F. W. Puller, in No. 8 of the first series of *Occasional Papers on Missionary Subjects*, Oxford Mission, Calcutta. The writer believes that this is largely due to the unreflecting assumption that divorce from nonsacramental unions leaves the parties *morally free* to re-marry, in spite of the contrary primal law of God to which Christ appealed. Cf., however, O. D. Watkins, pp. 441-448.

CHAPTER X

UNCTION OF THE SICK¹

I. *Introductory*

§ 1. There can be no reasonable denial that Christ's work of healing the sick was intended to serve in some degree as an example for those to whom He finally delegated His earthly ministry. We say in some degree, for the obvious limitation has to be recognized that our Lord's miracles were signs intended to afford evidence of His mission and to illustrate symbolically His power to heal the disease of sin. This limiting aspect also attaches to apostolic miracles of the same kind. None the less, our Lord plainly treats physical and spiritual disease as mutually related; and He includes physical healing among the duties of those whom He commissions in unqualified terms which indicate that such work properly pertains to

¹ On which, see A. P. Forbes, *Thirty-Nine Arts.*, pp. 465-474; C. S. Grueber, *The Anointing of the Sick*; Robert C. L. Reade, *Spiritual Healing and the Anointing of the Sick*; F. W. Puller, *The Anointing of the Sick*; P. Dearmer, *Body and Soul*, *passim* (these two exclude the sacramental grace); F. G. Belton, *Manual for Confessors*, Pt. VI. ch. iv; Blunt, *Dic. of Theol.*, s.v. "Unction, Extreme"; St. Thomas, III. Suppl. xxix-xxxiii; Hastings, *Encyc. of Relig.*, and *Cath. Encyc.*, s.v. "Extreme Unction."