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Invalidly married Catholics.
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INVALID

MARRIED CATHOLICS

**Your
Attitude
Toward
Them**

By Winfrid Herbst, S.D.S.

*A QUEEN'S WORK
PAMPHLET*



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THE QUEEN'S WORK

INVALIDLY MARRIED CATHOLICS

YOUR ATTITUDE TOWARD THEM

By Winfrid Herbst, S. D. S.

THE LADY waiting in the rectory for Father Walsh was on the tremulous brink of tears. Every few seconds she lifted a tiny lace handkerchief to her eyes as if the flood were imminent and unavoidable.

But the tears wouldn't come, and the hanky returned each time to its place on her lap. In the intervals between these crises, she contented herself with long, worried sighs, and impatient glances at the door.

When the priest finally entered the room, she brushed aside his affectionate greeting and went straight to the heart of her distress.

"Father, it was you that married them. How can Harry be right? You told us yourself that the Church had given them permission."

Startled by this confused and emotional opening, the priest blinked in surprise. She was an old friend of his, an active parishioner for many years, and he knew from her expression that she must be deeply troubled.

"I'm lost already," he said kindly and motioned her back to her chair. "Why don't you and I have a little chat and straighten things out."

Two Daughters

She relaxed slightly then, and managed an abashed smile.

Father Walsh took advantage of it to steer the conversation back to more pleasant things while she regained control of herself.

After they had talked for awhile about the old days in the parish, and some of the color had returned to her face, he cautiously ventured back to the purpose of her visit.

It was about her daughters, she said, suddenly tense again. Father Walsh remembered Ann and Marilyn, didn't he?

The priest nodded with a smile. He did indeed remember them. How could he forget them? Together they constituted one of the most unusual cases he had come across in all his years in the parish.

Ann and Marilyn were born within a year of each other, he remembered, and grew up like two echoes of the same thought.

When he baptized the second daughter, Father Walsh had joked that if she had been punctual, the family might have had twins. The girls dressed alike, looked alike, and when Ann fell in love with an unbaptized boy, Marilyn soon followed by falling in love with his brother.

They came to Father Walsh, two frightened young women who had heedlessly followed their emotions into a perilous love and now wanted the blessings of the Church on their marriages.

He had explained carefully to them that there was an impediment to their marriage to the brothers, and that the impediment was called disparity of worship. They could not, under pain of nullity, marry young men who were not baptized.

A Dispensation

There was just one thing they could do, he said. They might request a dispensation from the impediment, a relaxation of the law in their particular case.

Father Walsh had warned them that the dispensation is granted only when there are truly grave reasons. He pointed out that the Bishop is the person who has power in the matter.

Excited and eager to try any possibility of approval, the girls had applied for the dispensation immediately.

Months of anxious waiting had passed, as hard in a way for Father Walsh as for the girls, who plagued him daily with requests for news.

At last the permission had been secured, but only after the most solemn promises had been freely given by their spouses.

Both men had agreed to permit the girls the unhampered exercise of their religion, and both promised that any children of their unions would be baptized and reared in the Catholic faith. In addition Father Walsh had informed the girls that it was their duty to endeavor to bring about the conversion of their husbands.

That had all happened years ago, the priest recalled. The girls had families of their own now. Only a few months before Ann had given birth to her fourth child, a boy, and Father Walsh had baptized him.

Brother Harry

The priest looked thoughtfully at his visitor. He wondered who had upset her, and started the train of painful doubts about her daughters' marriages.

"You remember my brother Harry, don't you, Father?" she asked.

As she worked her way back to the subject of her concern, she became agitated again, and the lace handkerchief started its periodic visits to the eyes.

"I haven't seen Harry for years," she said in a choked voice, "but he was in town for two hours this afternoon on a business trip, and he stopped by the house for a visit."

Father Walsh remembered Harry all right, and he was beginning to understand why the lady was emotionally overwrought.

"Harry always was very blunt," she said. "He had a sharp way of saying things even as a child. And this afternoon he came right out and told me that my daughters were living in sin, and that my grandchildren were illegitimate."

Her voice was beginning to quaver, and she just barely got the remaining words out:

"He said that the girls aren't validly married in the eyes of the Church."

She broke down then, and the tears came burning to her eyes. She wept in an agony of doubt and fear.

The priest let her claim the full satisfaction that a good cry, too long refused, gives to a woman. When the last shaking sob had subsided, he spoke.

"To say that Harry made a rash statement would be putting it too mildly," he said. "Don't you recall that I, as a priest of God, was a witness to the ceremonies? That alone should tell you that the Church considers your daughters validly married."

He went on to explain, step by step, the authority by which the dispensation had been granted. Her features softened and glowed with understanding and relief, and by the time he had finished, she was smiling broadly.

“Harry may think he knows what he’s talking about,” the priest smiled, “but when it comes to a choice between him and the Church, I’ll stick with the Church every time.”

The Timid Majority

As for brother Harry, he proceeded steadfastly on his way, smugly convinced that he had met evil on its own field and refused to compromise with it.

The fact that there was a large area of disagreement between him and the Church did not disturb him, because he was not aware of it.

Harry had a clear and unmistakable attitude toward invalidly married Catholics. He would not tolerate such people for a moment. The only trouble was that Harry didn’t know who was validly married, and who was not.

He was, to be sure, a most unusual person. We do not meet his type every day. Most people, in fact, are so far removed from his particular brand of arrogance that they border on the opposite extreme.

The majority of us habitually allow our humility to obscure our sense of right and wrong.

We would not dream of pointing out to another that he is about to commit a sin. Like the stock comedian of the stage, we endure all kinds of injustices to satisfy our

timidity. Hit us with custard pies and pour buckets of water on us, but please don't ask us to speak our minds!

An artificial veneer of politeness covers our intuitive common sense. Rather than offend, we will permit the other fellow to accomplish all kinds of evil.

If another human is about to jump off a ten-story building, we shout and exhort. But let the same fellow threaten to commit suicide morally, and we stand placidly by, content to watch.

Catholic's Dilemma

The Catholic in particular seems to be a victim of this psychology of restraint. His faith gives him the answers to the moral problems of life. From his catechism he learns early what is demanded by the Creator.

And when he sees in the world around him actions that are obviously wrong and sinful, he feels the compulsion to say that they are wrong. And yet, because he dislikes "butting in," or hurting another's feelings, he refrains from comment.

His conscience observes the facts and forms a judgment. But he is reluctant to be considered a busybody, so, like the ostrich, he buries his head in the sands of indifference.

Nowhere in the arena of modern civilization does this inner conflict occur as frequently or as agonizingly as in the question of marriage.

By the very composition of our society, the Catholic is exposed every day to persons who possess little if any conception of the Church's attitude toward the marriage of her children.

What is more damaging is the fact that some Catholics themselves do not understand the laws of their faith that impede valid union with persons of another religion, or with pagans.

Thus, when the intelligent Catholic observes that one of his friends has foolishly become entangled in a romance that his faith will not countenance, he wants to shout out for all to hear, "Watch out there! You're on dangerous ground."

This desire to warn is not prompted by mere "nosiness." We are not referring to the casual predictions that accompany every marriage: "They'll never make a go of it." "John just isn't the right guy for her." "I hope they'll be happy, but they sure have different dispositions."

The problem runs much deeper than any conflict in personality or manners or economic background. Each of these factors will unquestionably influence the happiness of the marriage. It may take months before the necessary compromises and adjustments are made by each party.

But what we refer to here is a factor which cannot be compromised by the Catholic: the supreme and overriding importance of his faith.

Two Impulses

And that is why the parent, watching his son or daughter leave on a date with a non-Catholic, whispers the fervent prayer that the child will not throw away his precious inheritance of faith.

And that is why the lifelong friend watches with alarm when a Catholic chum starts courting a divorcee.

At this point, the two impulses that we have mentioned begin to bump heads. The mother longs to caution her daughter about becoming serious about the Baptist boy who lives next door, but she fears that chilling rebuke of youth: "I can run my own life."

The Catholic tries to find the words with which to tell his friend that he shouldn't be dating a girl who is already married, but somehow he doesn't get around to it.

Then, in the hesitancy and fumbling, while worlds are left unspoken that should be thundered, the tragedy happens.

The daughter runs away to marry the Baptist before a justice of the peace. The close friend becomes engaged to the divorcee.

Indecisive conduct has lost the day. But now another problem, as deadly and disturbing as the first, arises.

What Attitude?

What is the attitude which we should have toward these relatives and friends who, though Catholic, are invalidly married in the eyes of the Church? How must the conscientious Catholic respond to such challenges?

Should we snub them, refuse to visit or help them, ostracize them? But then what happens to God's admonition that we love our neighbor?

Instead, perhaps, should we pretend that nothing is amiss, that the invalid marriage is really none of our business, that we do not consider it as a bar to friendship? But who will dare contend that a Catholic can be indifferent to evil?

Between these two poles of complete severance of the relationship and gross indifference to the wrong, lies an immense range of action (and reaction) which is open to the Catholic.

In attempting to shape his attitude properly, he finds himself swayed by powerful affections. Nobody claims that it is easy to condemn one's own flesh, or repudiate a friendship that may have started in the sixth grade.

Unfortunately, such condemnation and repudiation is sometimes required.

To discover the sound basis of the true Catholic attitude toward the invalidly married, we think it advisable to put the problem in concrete terms, and deal with specific cases. And for clarity and convenience, we'll first consider situations that are not as personal or compelling as the blood relationship, and then move on to more intricate and delicate problems.

Wedding Gifts

The most common test of our attitude toward invalidly married Catholics involves habit and custom, the things that we normally do or are expected to do.

So let us suppose that you know a Catholic woman who, against every counsel and petition of her parents, has just married a non-Catholic before a minister. You have known her for years and have a great liking for her.

You had always planned to give her an expensive gift when she married, as a token of your fondness for her. When the wedding was announced, you were naturally shocked that she had made such a mistake.

Now you are faced squarely with the decision whether or not you can give her any present at all. You realize that there is a danger of scandal involved, and yet your natural fondness for her remains.

A moment's thought on the matter, however, should tell you that such a wedding present, if it in any way manifests approval of her conduct, is a species of cooperation in evil, more or less grave according to the circumstances. It is unthinkable that a good Catholic should wish to give a token of congratulation (which is what a wedding present represents) to one who has openly flouted the laws of the Church and is living under sentence of excommunication.

Of course, the gift would not be formal cooperation in the evil, that in which the sin itself is willed. You are not the person who has married in defiance of Church law.

But is it not material cooperation? Material cooperation is that which takes place when a person participates in a wicked deed without the evil intention of the principal. Such cooperation is permitted only when the act cooperated in is in itself good, or at least objectively indifferent, and when it is dictated by a just cause, e. g., great utility, necessity, avoidance of serious inconvenience. All of these causes are difficult to imagine in this situation.

When you feel the social pressure in an affair like this, and know that you are expected to acknowledge the wedding announcement with a gift, remember this: A Catholic must have the courage of his convictions and stand resolutely on the side of God and His holy Church. It is all very well to be tolerant and broadminded, but we must avoid that false tolerance which

is synonymous with *indifference to error*. It is a Christian duty to pity the *erring* and the *sinful* and treat them charitably, yes; but it is equally a Christian duty to hate and combat *error* and *sin*.

You would not send a congratulatory note to a friend who has just lost a leg or an arm in an accident.

Why, then, should you congratulate a friend who has lost something infinitely more precious: her faith.

The Wedding Party

Sending a wedding present would normally entail a certain amount of scandal, but it is relatively small when compared with the harm that results from other, more apparent approvals of such a marriage.

On those infrequent and truly awful occasions when a Catholic loses his faith and joins another religion in order to marry a person of that denomination, he may ask some of his Catholic friends to be in his wedding party.

They are then confronted with a personal request that would ordinarily be regarded as a great testimonial of intimacy and friendship. But, under the circumstances, can they accede to such a request?

First of all, we should understand that a fallen-away Catholic can come under any of three categories. He may be a *heretic*, who, having been baptized, retains the name of a Christian but obstinately denies or doubts some of the truths that must be believed by divine or Catholic faith. He may be an *apostate*, who has given up the Christian faith entirely and fallen away from it. Or he may be a *schismatic*, who

refuses to obey the Sovereign Pontiff or to live in union with those who submit to him.

All apostates from the Christian faith and all heretics and schismatics incur excommunication ipso facto; and if apostates, heretics, or schismatics have joined a non-Catholic sect, or publicly professed themselves members thereof, they are by this very fact (ipso facto) infamous.

In other words, if a Catholic were to assist in a wedding of a friend who has abandoned the faith and become a Baptist, for example, he would actually be condoning the folly of an excommunicated person.

Degrees of Scandal

The scandal inherent in such a course of action is even graver, and the prohibition more serious, than in other types of invalid marriages.

Thus, for example, we know that a Catholic is not permitted to attend the attempted remarriage of a divorced person, because such a union is invalid in the eyes of God.

And a Catholic may not attend or assist in a mixed marriage in a Protestant church because such conduct violates a serious Church law that forbids mixed marriage without dispensation.

Due to extraordinary circumstances, a Catholic may be allowed *by his Bishop* to act as a best man or as bridesmaid at a Protestant church wedding of two born Protestants, provided there is an extremely good reason. An example of such a reason might be that a convert-Catholic wishes to stand up for the marriage of a Protestant brother or sister. But even in such a case, there is a likelihood that in many areas such

a convert-Catholic would be forbidden by the Bishop to act in that capacity, as being an implicit approval of a Protestant sect. It is up to the Bishop in the particular area to decide, and his permission must be obtained. The element of sufficient reason and scandal is local and changing, so it is impossible to state absolutely whether or not such permission would be granted.

But in the case immediately at hand, the groom has not only given up his faith, he has joined another religion.

Since a Catholic cannot even attend the attempted marriage of a divorced person, or a mixed marriage in a Protestant church, how obvious it should be that a Catholic can under no circumstances participate in a ceremony which involves the excommunicated.

Perhaps parents or near relatives of such a person will urge the Catholic friend that by attending such a "marriage" they at least retain the good will of the rash young man. The argument may be advanced that later, by means of this good will, there will be a better chance of getting the person to turn away from the sinful cohabitation.

But the scandal given would be too grave. Moreover, there is just as great a probability that a severe attitude on the part of parents or relatives will open the eyes of the misguided.

Visits

But let us suppose the thing has been done—so now what?

The parents and relatives may, and indeed even should, show the poor sinner that he has all their love and sympathy, but they

should also show that they are unchanged in their condemnation of his conduct.

It would be permissible to invite him to visit them; but visits from the couple together should be definitely disapproved, or at the most allowed only rarely, if at all. It is permissible, however, to have friendly contacts with the couple for the sole purpose of ultimately influencing them to do what is right.

The point at issue here touches upon one of the most difficult problems in modern American life, since there are now hundreds of thousands of persons in this country who have been divorced and "remarried," even some who call themselves Catholics, whose union is not a genuine marriage. Association with such persons cannot be entirely avoided; and yet it is easy to give scandal by such association, since by freely associating with such persons Catholics are likely to give the impression that they regard the conjugal life of the couples in question as perfectly lawful, or as only slightly culpable. Generally speaking, purely business relations with divorced persons are permissible, whereas purely social relations with a couple, one or each of whom is known to have a previous spouse still living, should be avoided by Catholics or at least reduced to a minimum.

This same rule of conduct applies to our relationships with persons who, though not divorced, have contracted invalid marriages.

We may associate with them in a civic way, provided such association does not entail real danger of perversion and is not an approval of their error. But we must not act deceitfully toward them, by pretending that we consider them validly married.

Once again we are called upon to remember that practical civic toleration is not the same as indifference to error. We can suffer patiently with a disease without ever ignoring it or forgetting its danger.

Love Sinner, Hate Sin

Practical civic toleration consists in the personal esteem and love which we are bound to show toward the erring person, even though we condemn or combat his error; for the Christian ideal of charity is to love the neighbor for the sake of God. The good faith of the erring must, as a rule, be presumed until the contrary is established. But even in the extremest cases, Christian charity must never be wounded, since the final judgment on the individual rests with Him who "searches the heart and the reins."

We are not to confuse sin and error with the persons who sin and err.

Ordinary association with these persons, under the conditions mentioned, may offer opportunities for prudent fraternal correction, and may induce these misguided souls to see the error of their ways and to rectify them.

Often, in the hearts of such wayward Catholics, a critical struggle is taking place—the gentle urge of Christ against the rebellious will or a mind clouded by passion. By our charity and prayers we may help turn the battle in favor of the Savior.

In his famous Encyclical Letter *Arcanum Divinae Sapientiae*, on Christian marriage, Pope Leo XIII urges us to this very task with these words: "Let your utmost care be exercised in bringing such persons back

to their duty; and, both by your own efforts and by those of good men who will consent to help you, strive by every means that they may see how wrongly they have acted; that they may do penance; and that they may be induced to enter into a lawful marriage according to the Catholic rite."

Our attitude toward the invalidly married, then, is built on two separate and yet related propositions.

First, we in no way approve of the sinful act by which the Catholic has insulted his faith and his Savior. We do not recognize a "marriage" nor do we minimize the extent of the wrong.

But, secondly, we have a deep charity toward the sinner.

As St. Augustine says, we bear patiently with the sinner, not that we may love sin in him but that we may combat sin because of him. We have charity toward the invalidly married, not because he is a sinner but because he is a man. In a similar way, if we love the sick we combat the fever; for if we spare the fever, we do not love the sick.

Knowing the Law

But there is another aspect of this eminently practical question as to how we should act toward the invalidly married Catholic. We must know who is and who is not validly married.

Plainly, we cannot hope to be acting in conformity with the spirit and wishes of the Church if we do not understand Her law.

We have already mentioned the two extremes of error into which anyone of us may fall.

On the one hand, we may adopt a false and listless tolerance, which is in effect indifference to evil.

On the other, we may think ourselves bigger than the Church, and as a consequence sin against charity.

An example of the latter extreme was brother Harry of our opening paragraphs. He thoughtlessly and unjustly accused his nieces of sin when in fact they were innocent.

Harry was not consciously telling a falsehood when he said their marriages were invalid. As a matter of fact, he thought it was his duty to condemn them.

But because of ignorance and complacency, he did not know what he was talking about. And as a result he stigmatized as public sinners two women who were leading good Catholic lives.

If we desire, therefore, to form a correct attitude toward those who marry outside the Church, we must understand the fundamentals of Church law on the subject.

That does not mean that each and every Catholic must have the detailed knowledge of a theologian in order to tell who is and who is not validly married.

Few of us would claim to be expert mathematicians, and yet we know what change to expect from a dollar when we make a quarter purchase.

We do not have to possess the lengthy training of a priest to understand that a marriage between two baptized persons is a sacrament.

Nor need we be a genius to grasp the basic fact that a marriage between two

infidels (two unbaptized persons) is not a sacrament.

A marriage between a baptized person and an infidel cannot be a sacrament for the infidel for the simple reason that he is incapable of receiving any sacrament before Baptism.

Theologians are not agreed as to whether the marriage can be a sacrament for the baptized party in the case where the other party is an infidel. A few theologians say that the marriage is a sacrament for the baptized party; but most of them teach that it is not a sacrament for the baptized party either.

For the laity it is sufficient to know what Father Connell's *The New Baltimore Catechism* says about this matter: "The marriage of an unbaptized person, either with a baptized person or with another unbaptized person, is a sacred contract and a real marriage, provided it is not rendered null and void by some law of God or of the Church; but it is not a sacrament, because a person must receive Baptism before he can receive any other sacrament."

Aware of this, the intelligent Catholic realizes that there is a real marriage in such a union. His attitude toward the man and wife is the same as the Church's: he rejoices with them in the sacredness of their contract.

Mixed Marriages

Similarly, every informed Catholic acknowledges the validity of a marriage between a Catholic and a person of another religion provided a dispensation has been granted.

Here again, our attitude is no broader nor narrower than the teachings of Holy Mother Church, who, though she warns constantly against the dangers arising from such a marriage, nevertheless will sanctify such union when certain conditions are met.

It will perhaps be beneficial to repeat those conditions.

The Church, in order to insure respect for the divine law, demands that the non-Catholic party shall promise to remove all danger of perversion of the Catholic party, and to permit the Catholic the free exercise of his or her religion; and both of the contracting parties must promise to have all their children baptized and brought up in the Catholic faith. In addition the Catholic party must know that it is his duty to endeavor, prudently, to bring about the conversion of his partner.

These conditions are serious ones, and not to be taken lightly by either party. They mirror the Church's genuine concern over the dangers of mixed marriages.

That concern was emphasized by Pope Leo XIII in his famous Encyclical Letter on Christian marriage, in these words:

“Care also must be taken that they do not easily enter into marriage with those who are not Catholics; for when minds do not agree as to the observances of religion, it is scarcely possible to hope for agreement in other things. Other reasons also proving that persons should turn with dread from such marriages are chiefly these: that they give occasion to forbidden association and communion in religious matters; endanger the faith of the Catholic partner; are a hindrance to the proper education of the

children; and often lead to a mixing up of truth and falsehood, and to the belief that all religions are equally good."

In this connection it is important to bear in mind that the parties to a mixed marriage may not, either before or after the celebration of the marriage in the Church, apply also, either in person or by proxy, to a non-Catholic minister, in order to express or renew matrimonial consent.

This species of "tolerance," which permits the marriage ceremony to be performed first in the Catholic church and later in some other religion, makes a farce of the faith and is in effect a denial of its divine origin.

The Children

One of the most important conditions for a dispensation to a mixed marriage is the one relating to children.

This insistence of the Church upon the Catholic education of the offspring reflects its eternal concern for the young.

The Church recognizes that the peril of the invalidly married is not only to themselves, but also to their children. As in other fields of human conduct, it is not just the person who transgresses or commits the evil who suffers, but the innocent and defenseless as well.

Adam sinned, and lost for all mankind the integrity and pristine purity with which God had created the original man.

A Catholic enters an invalid marriage, and loses not only the atmosphere of grace which he needs to live in Christ, but also the rich and nourishing Catholic atmosphere which his children will need to grow as sons and daughters of the Savior.

Who is more pathetic than the child of an invalid marriage, deprived as he is of the great and necessary truths of Catholicism, not through his own fault but through the passion or intemperance of his parent?

What can such a child expect in the way of guidance from a home whose very foundation rests on error and sin?

It is often with the birth of their children that invalidly married Catholics appreciate the enormity of their mistake. Perhaps by this time they have already attempted to have their marriage rectified, and to reclaim the golden gift of their faith. But even if they are not as yet willing to conform to the Divine Rule of the Church, they frequently wish to have their children baptized as Catholics.

Despite the persistence in their error, may they present their children for Baptism?

Since there may be one hundred and one different categories of cases that may lie between the good practicing Catholic and the complete apostate, we shall here consider only two broad categories as regards Baptism:

1. Catholics. Canon Law says that their children are to be baptized as soon as possible.

2. Apostates (those who have entirely given up the Christian faith). Canon Law says that their children may generally be baptized at the request of at least one parent, "provided the Catholic upbringing of the child is reasonably safeguarded."

The condition just given naturally applies not only to class 2 but also to class 1 and to all the categories in between. (Church

Law presumes that the children of Catholics will be brought up as Catholics).

Of course, if the child is in danger of death neither the above conditions nor the consent of the parents is necessary.

Reasonable Grounds

The condition, quoted from Canon Law above, means at least that there must be reasonable grounds for believing that the child will be brought up with a knowledge of the principal truths of Catholic faith and moral teaching.

Hence the test to be applied to all these cases is: "Are there reasonable grounds for believing that the child will be brought up as a Catholic?"

If the answer to this test question is "Yes" and if the parents or guardians, or at least one of them, consent to the Baptism, the child may be lawfully baptized in the Church.

If the answer is "Yes," the fact that the parents are this and that, or so and so, makes no difference. In other words, refusal of Baptism may not be used as a club over the heads of the parents or as a weapon with which to spur them on to a better observance of their religious duties or with which to punish them for infringements of Canon Law. There are other legal means and punishments for that purpose. Refusal of Baptism is not one of them.

The mother is especially to be taken into consideration. Even if the father is an unbeliever or a heretic or an apostate, the mother will generally provide for the child's Catholic upbringing and education. Hence it is usually lawful to baptize a child whose

mother is Catholic and wants the child baptized; for in such a case there is probably hope of a Catholic education. Naturally all the particular circumstances of each case must be taken into consideration.

Catholic Divorce?

We have been stressing the classes of persons whom Catholics may not marry without dispensation, and the ruinous results to the children of the invalidly married.

Now let us take a look at an entirely different question, one that does not directly involve an invalid marriage, but which may be the cause of scandal.

What if a perfectly sound and valid Catholic marriage has collapsed?

The distraught wife accuses her husband of infidelity, and says that it is impossible to live with him any longer.

The husband in turn alleges that she has been cruel to him, henpecked him at every opportunity, and made life a torment.

Neither party believes that it is possible to live together as man and wife. They both wish to get a civil divorce.

What is the law governing such questions? May a Catholic under any circumstances obtain a civil divorce?

First of all, let us remember that a valid Catholic marriage is never dissolvable. The bond which two people forge in the holy presence of almighty God is stronger than any device or machine of puny man. It can never be broken, or sundered.

Therefore, even if a Catholic should desire just a nominal civil and legal breaking of that bond, it is a serious matter.

Catholics must never enter civil suit for divorce without permission from their Bishop. Whether they go to the civil courts for a decree of separation or for a divorce, permission must first be obtained from the Bishop.

Civil Effects Only

When in an extreme case, one in which there are peculiar circumstances that seem to demand suit for separation or divorce in the civil courts, Catholics wish to have recourse to this action, they should know full well that only civil effects are intended and that, though legally separated, they are still married and cannot contract another marriage during the lifetime of one of the partners.

Hence the matter must be presented to the Bishop for serious deliberation. If he finds that permission may be granted, he will see to it that the affair be explained in such manner as to obviate scandal and that the parties concerned be instructed as to their married status in the eyes of the Church.

If the Catholic takes any such action without the above-mentioned permission, he will, in many of the dioceses of the United States commit a mortal sin reserved to the Bishop. By that we mean that faculties to absolve him from that sin must be obtained from the Bishop, except in the cases where canon 900 of the Church law grants confessors faculties to absolve from reserved sins and where canon 899 gives pastors during the whole of Easter time and missionaries during the time of a mission the same faculties.

Even if the Catholic in question should get absolution from that reserved sin, he must still obtain permission from the Bishop if he desires to remain apart from his spouse. The only exception to this requirement of permission is adultery. And even in case of adultery, which is the lone exception where the husband may leave the wife (or vice versa) without permission, in actual practice the Bishop's permission should be sought. The reason for this is that the judgment of a third person seems almost essential to a good conscience in the matter.

What About Nullity?

We have mentioned previously that for a Catholic to know whether a particular marriage is valid or not, he must know something of Church law. But unfortunately, even Catholics who have acquired a passable knowledge in such law are frequently tripped up on a relatively simple adjunct of it.

We refer to the declaration of nullity.

Many times the Catholic will be exposed to the ridiculous and groundless charge that his Church, while refusing to recognize divorce, has its own device for achieving the same ends. As if in proof of this erroneous statement, the antagonist will then point out someone he knows who has had a marriage annulled.

This obvious confusion between divorce and the declaration of nullity is something no good Catholic should be guilty of.

When we speak of divorce, we mean that two people formerly joined have been severed.

When we speak of a declaration of nul-

lity, we mean that there never did exist a valid joining of the two people.

Christ has told us that man can never separate those whom God has joined together. In other words, there can be no divorce.

But nullity is the express declaration that the persons were never joined by God. In other words, there never was a marriage.

The Church takes every precaution before the ceremony to assure a valid union, with definite investigation as to the possibility of impediments which might make the marriage invalid.

Once the marriage vows have been exchanged in the proper manner, before a duly authorized priest and two witnesses, any future doubt as to the validity of the marriage is governed by the key presumption that the marriage is to be upheld as valid *until the contrary is proved*.

Once the parties have pledged and promised the all-important "I do" the internal consent is presumed to match the consent to marriage given externally at the time of the wedding ceremony.

These strong presumptions in favor of the validity of marriage can be overcome. They may give way before the weight of clear and incontestable proof of the presence of some invalidating impediment at the time of the marriage ceremony, but such evidence and proof is possible so rarely, that it is near-insanity for any person to enter a hasty marriage in the hope of a declaration of nullity if they cannot "make a go of it."

The Cornerstone

The Church is the guardian of the dignity and sanctity of marriage and marriage is the very cornerstone of the solidity of the family and of society. As a guiding principle, therefore, the Church would rather tolerate the continued union of those who may be living in an invalid marriage (but unable to prove it), than risk the violation of God's laws and risk the welfare of family and society by declaring a marriage invalid without clear and convincing proof of invalidity.

This principle is enshrined in the law of the Church on marriage. It is only logical that the individual good of the two persons involved in a doubtful marriage must be considered of secondary importance. The common good—the welfare of family and society—is of primary importance.

There are matrimonial tribunals throughout the Catholic world, set up by Church law to consider possible invalid marriages according to very exacting rules and regulations. The principle mentioned above requires that the rules be exacting—far more exacting than any procedure in civil courts anywhere. The Reverend Judges appointed to each case may decide in favor of the invalidity of the marriage *only* if the evidence in the case (documents, witnesses, etc.) furnishes *moral certitude* that the marriage was invalid from the beginning. These tribunals are not clinics for unhappy marriages where the judges are bound to adjust unfortunate situations at any cost, but tribunals of justice, dedicated to maintain the dignity and sanctity of the sacrament of marriage.

An Example

Let us say that a woman contends that her marriage was invalid because her husband married her with a clear and positive intention contrary to the permanency of marriage. In other words, in the Hollywood style, he reserved the right to leave her and marry another whenever he tired of her. This would not be marriage as established by Christ, but a mere union of legal concubinage.

Imagine the difficulty, however, of producing witnesses who heard him express such evil intentions before marriage; people just don't go around carrying their evil intents on their coat sleeves.

If clear and incontestable evidence cannot be furnished, the marriage must stand as valid.

But let us assume that elements of proof are furnished, and that the case is accepted by a marriage tribunal of the Church.

Considering the time-consuming tasks of gathering the documents and evidence, of hearing the parties and witnesses before the tribunal, of preparing the lengthy briefs both for and against the invalidity of the marriage, etc., it is easy to understand why the Church allows a period of two years for the consideration and decision of the case.

If this first tribunal of three Reverend Judges decides that the marriage is invalid, the decision cannot be considered as final until the case is sent to an appeal-tribunal and again decided in favor of the invalidity of the marriage.

If the appeal-tribunal decides that the marriage is valid, the case must go to the

high tribunal of appeal in Rome known as the Sacred Roman Rota.

As an indication of the rarity of decisions in favor of the invalidity of marriages, it might suffice to note that the Sacred Roman Rota considered 148 marriage cases in 1950, and that decisions in favor of invalidity were handed down in only 39 of these cases.

These cases were referred to the Sacred Roman Rota from tribunals throughout the Catholic world, and the percentage of declarations of nullity demonstrates how difficult it is to obtain one.

When you hear people talk of declarations of nullity, further investigation will reveal, in the vast majority of cases, that they are referring to either marriages of Catholics before ministers or Justices of the Peace (too many of them), or marriages where the one party later discovers that his or her partner was bound by a previous, valid marriage to another (enough of this type, too).

Chances are about 100 to 1 that they are *not* referring to the rare type of case mentioned above as an example.

Embracing Charity

We set out to find what the proper Catholic attitude is toward the invalidly married. In our search, we have discovered that the key to the proper attitude lies in a knowledge and appreciation of what the Church teaches in its Canon Law.

Once we know that a Catholic is invalidly married, we are called upon to confront that fact, not in a spirit of pettiness or hatred, but in the embracing charity of Holy Mother Church.

We must pray and work for his early return to the faith.

But we must not in any way, by association or by gifts, by visits or by attitude, manifest any approval of the sin.

We must always be ready to welcome the repentant back into the Church.

But we must never compromise the spirit and principles of our faith by condoning the error.

Our charity "is patient, is kind."

But our disapproval of the sin is unyielding.

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