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Roman Church Law and Mixed Marriages

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Recht fragen: Welches ist die richtige Formel? Denn bald war sie eine Erklärung, bald ein Bekenntnis, bald eine Benediction. Eins ist dem lutherischen Liturgen klar, nämlich daß er die Formel nicht in der Gestalt, wie sie von dem Heilande gebraucht wurde, anwenden kann, wenigstens nicht ohne die einleitenden Worte: *Jesus sprach*. Denn dann kommen wir in das Fahrwasser der Unierten (und vieler Reformierten), die sich der Formel in diesen Worten bedienen und damit das ganze Sakrament ungewiß machen.

Für uns sollte der kirchlich-liturgische Gebrauch ausschlaggebend sein, der nämlich die Spendeformel nicht zu einem wesentlichen Teil des Sakraments macht, dabei aber doch seinen Gebrauch befürwortet, ja unter Umständen darauf besteht. Denn die Spendeformel der lutherischen Kirche ist zu einem Bekenntnis geworden, vornehmlich allen reformierten Kirchengemeinschaften gegenüber, die die wahre Gegenwart des Leibes und Blutes Christi im Abendmahl leugnen, inf. der Unierten. Mit dem Bekenntnis oder der Heftdarlegung aber verbindet sich schon in der mittelalterlichen Kirche übliche Benediction, die zugleich eine Mahnung an die Kommunikanten enthält, daß doch keiner den Segen des Sakraments verzerze.

P. C. Kreßmann.

Roman Church Law and Mixed Marriages.*

The Papal Encyclical and Its Roman Interpretation.

A. What Pope Pius XI Says on Mixed Marriages.

"The religious character of marriage, its sublime signification of grace, and the union between Christ and the Church evidently requires that those about to marry should show a holy reverence towards it and zealously endeavor to make their marriage approach as nearly as possible to the archetype of Christ and the Church.

"They therefore who rashly and heedlessly contract mixed marriages, from which the maternal love and providence of the Church dissuades her children for very sound reasons, fail conspicuously in this respect, sometimes with danger to their eternal salvation. This

* The two documents here printed from authentic sources present the subject of mixed marriages according to official declarations of the present Pope, Pius XI, and its interpretation by an acknowledged Roman Catholic spokesman. The section of the encyclical of December 31, 1930, is taken from the book *Four Great Encyclicals* of the Paulist Press, 101 f., and the discussion of mixed marriages on the basis of this encyclical and previous statements, by W. I. Lonergan, S. J., is taken from the periodical *America*, April 23, 1932. Cf. *Readers' Digest* of June, 1932, pp. 66 and 69. The italicized sections are so indicated by us. Every reader may readily make his own applications. — *Edit. Comm.*

attitude of the Church to mixed marriages appears in many of her documents, all of which are summed up in the Code of Common Law: 'Everywhere and with the greatest strictness the Church forbids marriages between baptized persons one of whom is a Catholic and the other *a member of a schismatical or heretical sect*; and if there is added to this *the danger of the falling away of the Catholic party and the perversion of the children*, such a marriage is forbidden also by the divine Law.' (*Cod. Iur. Can.*, c. 1060.) If the Church occasionally, on account of circumstances, does not refuse to grant a dispensation from these strict laws (provided that the divine Law remains intact and the dangers above mentioned are provided against by suitable safeguards), it is unlikely that the Catholic party will not suffer some detriment from such a marriage.

"Whence it comes about not unfrequently, as experience shows, that deplorable defections from religion occur among the offspring or at least a headlong descent into that religious indifference which is closely allied to impiety. There is this also to be considered that in these mixed marriages it becomes much more difficult to imitate by a lively conformity of spirit the mystery of which We have spoken, namely, that close union between Christ and His Church.

"Assuredly also will there be wanting that close union of spirit which, as it is the sign and mark of the Church of Christ, so also should be the sign of Christian wedlock, its glory and adornment. . . ."

B. The Exposition Given by Wm. I. Lonergan, S. J.

"A bit of legislation on mixed marriages, promulgated by the Holy Office early in the year, was given wide-spread publicity by the American press, which for the most part misunderstood or misinterpreted it. Hence a restatement of the whole position of the Catholic Church in the matter of mixed marriages is timely and badly needed. In a country such as the United States, which is largely non-Catholic and where the tendency to mixed unions is more frequent than in places like France, Italy, Austria, Ireland, Spain, etc., where the population is mostly Catholic, there is grave danger lest, misled by appearances, Catholics may come to look lightly on mixed marriages or to forget how decisively the Church condemns them and with what reluctance she tolerates them, and danger, too, that the Church's position will easily be misconstrued by those not of the fold.

"Without going too minutely into the technicalities of Canon Law, a mixed marriage is popularly understood to be the union of a Catholic with one not of the faith. All such unions the Catholic Church severely reprobates, though where the non-Catholic party has been baptized and is in consequence merely a heretic or schismatic, the ecclesiastical prohibition is less severe. In this latter case

(*assuming that the proper formalities have been gone through and that there are no diriment impediments standing in the way of the contract*) the marriage, even if contracted without a dispensation, while gravely sinful, would be valid; whereas, under similar conditions, a marriage between a Catholic and an unbaptized person would be absolutely null and void.

"However, *notwithstanding this distinction* papal documents employ the same harsh language when speaking of mixed marriages of either sort. They are habitually characterized as 'pernicious' and 'detestable' unions; something to be 'abhorred,' 'deplored,' 'abominated.' Because of the grave danger to faith and morals always to some extent involved in them, they may not be contracted except there be 'just and weighty reasons.' What causes are deemed sufficient may be gaged from the strictness of the Hierarchy in granting dispensations. The good of the Church or of society or the avoidance of some grave evil is presupposed. Mere convenience or one's emotional satisfaction or purely material advantages do not suffice, and theologians generally agree that dispensations on such flimsy pretexts would be invalid.

"The Church's legislation is based on the presumption that there is a peril in marriages where the parties lack a common faith. Discord is almost inevitable; for there cannot be a perfect union of wills and mutual accord under such circumstances. Moreover, and this is of most serious moment, there is always the possibility of the Catholic party's being weaned away from, or weakened in, his or her belief or of the offspring's not being baptized and brought up in the true religion. *Experience proves that loss of faith and religious indifferentism are often the consequences of mixed marriages.* Where there is proximate danger of this, the divine Law prohibits such unions, and so long as the danger remains that way, even the Pope cannot allow them.

"*The Church may never permit Catholics to marry those of other religious professions except UNDER THE TWOFOLD CONDITION that the Catholic party will be undisturbed in the free exercise of his or her religion AND THAT ALL THE OFFSPRING SHALL BE BROUGHT UP IN CATHOLICISM.* Were she to marry her children on any other basis, she would be faithless to her divine mission and to the maternal care she should manifest for them.

"To insure the fulfilment of these conditions, *ecclesiastical law has long exacted that before the impediments arising from differences in belief be dispensed from, guarantees be given by the non-Catholic party that all danger of perversion in his or her faith will be removed for the Catholic party and PLEDGES BY BOTH PARTIES that ALL the children will be baptized and brought up only in the Catholic faith.* As an ordinary practise these guarantees are to be demanded

in writing. Canon Law also provides that the Catholic spouse should endeavor to convert the non-Catholic partner and that the marriage may not be celebrated before a non-Catholic minister, but, *except diocesan regulations provide otherwise, it does not impose a formal promise on these latter points.*

"It should be noted that the non-Catholic's guarantee that the danger of perversion for the Catholic party will be removed does not merely mean that no attempt will be made directly and positively to turn the Catholic from the faith, but that nothing will be done towards bringing this about, even indirectly, as, for example, by inconsiderate remarks, by a general way of acting and speaking, through one's friends or parents, or through baneful books and newspapers to whose influence they will expose the Catholic.

"As for the *promises to educate* the children Catholic, this implies *not only that they will be baptized, be taught their prayers, be brought up to attend Mass, be prepared for Confession, Communion, and Confirmation, and, in general, learn the rudiments of religion, but that they will be so grounded in their faith and its practises that it may be anticipated that they will continue steadfast.*

"Obviously these promises are of major moment. They must be honestly given and honestly observed. They cannot be a mere formality. Theologians, however, until the recent decree of the Holy Office, were commonly agreed that, provided they were demanded and made, even if the parties signed them in bad faith, the insincerity did not nullify the dispensation; its validity was safeguarded.

"Because of the supreme importance attached to these guarantees, papal decrees and the Code of Canon Law both provide that there must be a moral certainty that they will be fulfilled. While obviously not easy to have, this was generally got by estimating the characters and seriousness of the parties being married.

"*The force of the recent legislation is that it aims further to secure this certainty and to remove the danger of abuses that may have accompanied the making of these promises, particularly as regards the Catholic education of the children.* Sometimes even when the guarantees were given in all honesty, it could be reasonably foreseen that despite the good will of the contracting parties, they would be rendered nugatory because of civil laws prevailing where they resided or intended to reside. Thus some Protestant countries have legislation that children born of mixed marriages must follow the belief of their parents; if the father be a Catholic and the mother a non-Catholic, all the boys would take the father's religion and the girls, the mother's.

"To meet this contingency, *Rome calls the attention of those empowered to dispense from impediments regarding mixed marriages to their obligation in conscience never to do so unless, in arriving at*

the moral certainty about the fulfilment of the guarantees, they also have regard for the circumstances and conditions under which the couple will find themselves. They are instructed that they are not to accept guarantees the fulfilment of which can likely be impeded, especially by civil magistrates or heretical ministers, by virtue of laws providing for a different arrangement regarding the religious upbringing of children and in effect where the parties live or are later going to take up their residence.

"The decree in no sense suggests the absurdity commonly reported in the American press that, if the promises are sincerely given, but later violated, the marriage, valid in its inception, would subsequently be rendered null. Nor does it obligate those granting dispensations to make the promises legally enforceable, a procedure of very doubtful value in a country like ours and that might well serve as a boomerang. *It does forbid them, however, if the laws, by anticipation, actually make their observance impossible.* Its principal significance is that it lays stress again on the need for moral certainty that the guarantees are going to be effective by calling attention to one common situation militating against this certainty.

"To emphasize its seriousness, the Holy Office adds that, *if the dispensation be granted without these guarantees being thus secured, it [the dispensation] shall be 'wholly null and invalid.'* AS A COROLLARY, *if it be necessary for the validity of a marriage, as in projected unions between Catholics and those not baptized, the marriage itself would also be null — no marriage.* In matrimony, however, *between Catholics and baptized non-Catholics, where the dispensation itself is not essential for validity, the marriage would be valid, BUT GRAVELY SINFUL AND ILLICIT."*

Die Hauptschriften Luthers in Chronologischer Reihenfolge. Mit Anmerkungen.

(Fortsetzung.)

1523. „Ordnung eines gemeinen Kastens der Gemeinde zu Leisnig.“ — Dies ist die sogenannte Leisniger Kasten- oder Kirchenordnung mit Luthers Vorrede, wie die geistlichen Güter zu handhaben sind. Die Schrift erschien etwa am Anfang Juli. Sie bietet so ziemlich alles, was Luther damals von einem etwaigen lutherischen Kirchenrecht zu sagen hatte. Wir würden die Schrift jetzt etwa eine Konstitution nennen, da sie alle Punkte behandelt, die zur Aufrihtung und Erhaltung des Pfarramts und einer christlichen Schule gehören. Die wichtigsten und interessantesten Paragraphen sind die von der Besetzung der Gemeindeämter. Als zur Gemeinde gehörig wurden gerechnet „ein jeder ehrbarer Mann, Bürger und Bauer, in dem Kirchspiel wohnhaftig, sein Weib und Kinder, . . . alle Hausgenossen, Dienstgesinde, Knappschaft der Handwerke und andere Personen, welche nicht häuslich besessen und doch unserer Pfarrechte sich mit freuen.“ (St. Louiser Ausgabe X, 954—977.)

1523. „Von Ordnung Gottesdiensts in der Gemeinde.“ — Dies ist eine ganz kurze Schrift, in der Luther zum erstenmal in systematischer Weise die Gottesdienstordnung behandelt und gewisse Vorschläge betreffs des Hauptgottesdienstes