

Objection 1. It would seem that carnal intercourse after consent expressed in words of the future makes a marriage. For consent by deed is greater than consent by word. But he who has carnal intercourse consents by deed to the promise he has previously made. Therefore it would seem that much more does this make a marriage than if he were to consent to mere words referring to the present.

Objection 2. Further, not only explicit but also interpretive consent makes a marriage. Now there can be no better interpretation of consent than carnal intercourse. Therefore marriage is completed thereby.

Objection 3. Further, all carnal union outside marriage is a sin. But the woman, seemingly, does not sin by admitting her betrothed to carnal intercourse. Therefore it makes a marriage.

Objection 4. Further, "Sin is not forgiven unless restitution be made," as Augustine says (Ep. cliii ad Macedon.). Now a man cannot reinstate a woman whom he has violated under the pretense of marriage unless he marry her. Therefore it would seem that even if, after his carnal intercourse, he happen to contract with another by words of the present tense, he is bound to return to the first; and this would not be the case unless he were married to her. Therefore carnal intercourse after consent referring to the future makes a marriage.

On the contrary, Pope Nicholas I says (Resp. ad Consult. Bulg. iii; Cap. Tuas dudum, De clandest. despons.), "Without the consent to marriage, other things, including coition, are of no effect."

Further, that which follows a thing does not make it. But carnal intercourse follows the actual marriage, as effect follows cause. Therefore it cannot make a marriage.

I answer that, We may speak of marriage in two ways. First, in reference to the tribunal of conscience, and thus in very truth carnal intercourse cannot complete a marriage the promise of which has previously

been made in words expressive of the future, if inward consent is lacking, since words, even though expressive of the present, would not make a marriage in the absence of mental consent, as stated above (q. 45, a. 4). Secondly, in reference to the judgment of the Church; and since in the external tribunal judgment is given in accordance with external evidence, and since nothing is more expressly significant of consent than carnal intercourse, it follows that in the judgment of the Church carnal intercourse following on betrothal is declared to make a marriage, unless there appear clear signs of deceit or fraud* (De sponsal. et matrim., cap. Is qui fidem).

Reply to Objection 1. In reality he who has carnal intercourse consents by deed to the act of sexual union, and does not merely for this reason consent to marriage except according to the interpretation of the law.

Reply to Objection 2. This interpretation does not alter the truth of the matter, but changes the judgment which is about external things.

Reply to Objection 3. If the woman admit her betrothed, thinking that he wishes to consummate the marriage, she is excused from the sin, unless there be clear signs of fraud; for instance if they differ considerably in birth or fortune, or some other evident sign appear. Nevertheless the affianced husband is guilty of fornication, and should be punished for this fraud he has committed.

Reply to Objection 4. In a case of this kind the affianced husband, before his marriage with the other woman, is bound to marry the one to whom he was betrothed, if she be his equal or superior in rank. But if he has married another woman, he is no longer able to fulfill his obligation, wherefore it suffices if he provide for her marriage. Nor is he bound even to do this, according to some, if her affianced husband is of much higher rank than she, or if there be some evident sign of fraud, because it may be presumed that in all probability she was not deceived but pretended to be.

* According to the pre-Tridentine legislation