

SUPPLEMENT TO THE THIRD PART, QUESTION 50

Of the Impediments of Marriage, in General (In One Article)

In the next place we must consider the impediments of marriage: (1) In general; (2) In particular.

Whether it is fitting that impediments should be assigned to marriage?

Suppl. q. 50 a. 1

Objection 1. It would seem unfitting for impediments to be assigned to marriage. For marriage is a sacrament condivided with the others. But no impediments are assigned to the others. Neither therefore should they be assigned to marriage.

Objection 2. Further, the less perfect a thing is the fewer its obstacles. Now matrimony is the least perfect of the sacraments. Therefore it should have either no impediments or very few.

Objection 3. Further, wherever there is disease, it is necessary to have a remedy for the disease. Now concupiscence, a remedy for which is permitted in matrimony (1 Cor. 7:6), is in all. Therefore there should not be any impediment making it altogether unlawful for a particular person to marry.

Objection 4. Further, unlawful means against the law. Now these impediments that are assigned to matrimony are not against the natural law, because they are not found to be the same in each state of the human race, since more degrees of kindred come under prohibition at one time than at another. Nor, seemingly, can human law set impediments against marriage, since marriage, like the other sacraments, is not of human but of Divine institution. Therefore impediments should not be assigned to marriage, making it unlawful for a person to marry.

Objection 5. Further, lawful and unlawful differ as that which is against the law from that which is not, and between these there is no middle term, since they are opposed according to affirmation and negation. Therefore there cannot be impediments to marriage, placing a person in a middle position between those who are lawful and those who are unlawful subjects of marriage.

Objection 6. Further, union of man and woman is unlawful save in marriage. Now every unlawful union should be dissolved. Therefore if anything prevent a marriage being contracted, it will “de facto” dissolve it after it has been contracted; and thus impediments should not be assigned to marriage, which hinder it from being contracted, and dissolve it after it has been contracted.

Objection 7. Further, no impediment can remove from a thing that which is part of its definition. Now indissolubility is part of the definition of marriage. Therefore there cannot be any impediments which annul a marriage already contracted.

Objection 8. On the other hand, it would seem that there should be an infinite number of impediments to marriage. For marriage is a good. Now good may be

lacking in an infinite number of ways, as Dionysius says (Div. Nom. iii). Therefore there is an infinite number of impediments to marriage.

Objection 9. Further, the impediments to marriage arise from the conditions of individuals. But such like conditions are infinite in number. Therefore the impediments to marriage are also infinite.

I answer that, In marriage, as in other sacraments, there are certain things essential to marriage, and others that belong to its solemnization. And since even without the things that pertain to its solemnization it is still a true sacrament, as also in the case of the other sacraments, it follows that the impediments to those things that pertain to the solemnization of this sacrament do not derogate from the validity of the marriage. These impediments are said to hinder the contracting of marriage, but they do not dissolve the marriage once contracted; such are the veto of the Church, or the holy seasons. Hence the verse:

“The veto of the Church and holy tide
Forbid the knot, but loose it not if tied.”

On the other hand, those impediments which regard the essentials of marriage make a marriage invalid, wherefore they are said not only to hinder the contracting of marriage, but to dissolve it if contracted; and they are contained in the following verse:

“Error, station, vow, kinship, crime,
Difference of worship, force, holy orders,
Marriage bond, honesty, affinity, impotence,
All these forbid marriage, and annul it though
contracted.”

The reason for this number may be explained as follows: Marriage may be hindered either on the part of the contract or in regard to the contracting parties. If in the first way, since the marriage contract is made by voluntary consent, and this is incompatible with either ignorance or violence, there will be two impediments to marriage, namely “force,” i.e. compulsion, and “error” in reference to ignorance. Wherefore the Master pronounced on these two impediments when treating of the cause of matrimony (Sent. iv, DD 29,30). Here, however, he is treating of the impediments as arising from the contracting parties, and these may be differentiated as follows. A person may be hindered from contracting marriage either simply, or with some particular person. If simply, so that he be unable to contract marriage with any woman, this can only be because he is hindered from performing the marriage act. This happens in two ways. First, because he cannot “de facto,”

either through being altogether unable—and thus we have the impediment of “impotence”—or through being unable to do so freely, and thus we have the impediment of the “condition of slavery.” Secondly, because he cannot do it lawfully, and this because he is bound to continence, which happens in two ways, either through his being bound on account of the office he has undertaken to fulfill—and thus we have the impediment of “Order”—or on account of his having taken a vow—and thus “Vow” is an impediment.

If, however, a person is hindered from marrying, not simply but in reference to a particular person, this is either because he is bound to another person, and thus he who is married to one cannot marry another, which constitutes the impediment of the “bond of marriage”—or through lack of proportion to the other party, and this for three reasons. First, on account of too great a distance separating them, and thus we have “difference of worship”; secondly, on account of their being too closely related, and thus we have three impediments, namely “kinship,” then “affinity,” which denotes the close relationship between two persons, in reference to a third united to one of them by marriage, and the “justice of public honesty,” where we have a close relationship between two persons arising out of the betrothal of one of them to a third person; thirdly, on account of a previous undue union between him and the woman, and thus the “crime of adultery” previously committed with her is an impediment.

Reply to Objection 1. There may be impediments to the other sacraments also in the omission either of that which is essential, or of that which pertains to the solemnization of the sacrament, as stated above. However, impediments are assigned to matrimony rather than to the other sacraments for three reasons. First, because matrimony consists of two persons, and consequently can be impeded in more ways than the other sacraments which refer to one person taken individually; secondly, because matrimony has its cause in us and in God, while some of the other sacraments have their cause in God alone. Wherefore penance which in a manner has a cause in us, is assigned certain impediments by the Master (Sent. iv, D, 16), such as hypocrisy, the public games, and so forth; thirdly, because other sacraments are objects of command or counsel, as being more perfect goods, whereas marriage is a matter of indulgence, as being a less perfect good (1 Cor. 7:6). Wherefore, in order to afford an opportunity of proficiency towards a greater good, more impediments are assigned to matrimony than to the other sacraments.

Reply to Objection 2. The more perfect things can be hindered in more ways, in so far as more conditions are required for them. And if an imperfect thing requires more conditions, there will be more impediments to it; and thus it is in matrimony.

Reply to Objection 3. This argument would hold, were there no other and more efficacious remedies for

the disease of concupiscence; which is false.

Reply to Objection 4. Persons are said to be unlawful subjects for marriage through being contrary to the law whereby marriage is established. Now marriage as fulfilling an office of nature is established by the natural law; as a sacrament, by the Divine law; as fulfilling an office of society, by the civil law. Consequently a person may be rendered an unlawful subject of marriage by any of the aforesaid laws. Nor does the comparison with the other sacraments hold, for they are sacraments only. And since the natural law is particularized in various ways according to the various states of mankind, and since positive law, too, varies according to the various conditions of men, the Master (Sent. iv, D, 34) asserts that at various times various persons have been unlawful subjects of marriage.

Reply to Objection 5. The law may forbid a thing either altogether, or in part and in certain cases. Hence between that which is altogether according to the law and that which is altogether against the law (which are opposed by contrariety and not according to affirmation and negation), that which is somewhat according to the law and somewhat against the law is a middle term. For this reason certain persons hold a middle place between those who are simply lawful subjects and those who are simply unlawful.

Reply to Objection 6. Those impediments which do not annul a marriage already contracted sometimes hinder a marriage from being contracted, by rendering it not invalid but unlawful. And if it be contracted it is a true marriage although the contracting parties sin; just as by consecrating after breaking one’s fast one would sin by disobeying the Church’s ordinance, and yet it would be a valid sacrament because it is not essential to the sacrament that the consecrator be fasting.

Reply to Objection 7. When we say that the aforesaid impediments annul marriage already contracted, we do not mean that they dissolve a marriage contracted in due form, but that they dissolve a marriage contracted “de facto” and not “de jure.” Wherefore if an impediment supervene after a marriage has been contracted in due form, it cannot dissolve the marriage.

Reply to Objection 8. The impediments that hinder a good accidentally are infinite in number, like all accidental causes. But the causes which of their own nature corrupt a certain good are directed to that effect, and determinate, even as are the causes which produce that good; for the causes by which a thing is destroyed and those by which it is made are either contrary to one another, or the same but taken in a contrary way.

Reply to Objection 9. The conditions of particular persons taken individually are infinite in number, but taken in general, they may be reduced to a certain number; as instanced in medicine and all operative arts, which consider the conditions of particular persons in whom acts are.