

SUPPLEMENT TO THE THIRD PART, QUESTION 51

Of the Impediment of Error (In Two Articles)

We must now consider the impediments to matrimony in particular, and in the first place the impediment of error. Under this head there are two points of inquiry:

- (1) Whether error of its very nature is an impediment to matrimony?
- (2) What kind of error?

Whether it is right to reckon error as an impediment to marriage?

Suppl. q. 51 a. 1

Objection 1. It would seem that error should not be reckoned in itself an impediment to marriage. For consent, which is the efficient cause of marriage, is hindered in the same way as the voluntary. Now the voluntary, according to the Philosopher (*Ethic. iii, 1*), may be hindered by ignorance. But ignorance is not the same as error, because ignorance excludes knowledge altogether, whereas error does not, since “error is to approve the false as though it were true,” according to Augustine (*De Trin. ix, 11*). Therefore ignorance rather than error should have been reckoned here as an impediment to marriage.

Objection 2. Further, that which of its very nature can be an impediment to marriage is in opposition to the good of marriage. But error is not a thing of this kind. Therefore error is not by its very nature an impediment to marriage.

Objection 3. Further, just as consent is required for marriage, so is intention required for baptism. Now if one were to baptize John, thinking to baptize Peter, John would be baptized none the less. Therefore error does not annul matrimony.

Objection 4. Further, there was true marriage between Lia and Jacob, and yet, in this case, there was error. Therefore error does not annul a marriage.

On the contrary, It is said in the Digests (*Si per errorem, ff. De jurisdic. omn. judic.*): “What is more opposed to consent than error?” Now consent is required for marriage. Therefore error is an impediment to matrimony.

Further, consent denotes something voluntary. Now error is an obstacle to the voluntary, since “the voluntary,” according to the Philosopher (*Ethic. iii, 1*), Damascene (*De Fide Orth. ii, 24*), and Gregory of Nyssa* (*De Nat. Hom. xxxii*), “is that which has its principle in one who has knowledge of singulars which are the matter of actions.” But this does not apply to one who is in error. Therefore error is an impediment to matrimony.

I answer that, Whatever hinders a cause, of its very nature hinders the effect likewise. Now consent is the cause of matrimony, as stated above (q. 45, a. 1). Hence whatever voids the consent, voids marriage. Now consent is an act of the will, presupposing an act of the intellect; and if the first be lacking, the second must needs be lacking also. Hence, when error hinders knowledge, there follows a defect in the consent also, and consequently in the marriage. Therefore it is possible according to the natural law for error to void marriage.

Reply to Objection 1. Speaking simply, ignorance differs from error, because ignorance does not of its very nature imply an act of knowledge, while error supposes a wrong judgment of reason about something. However, as regards being an impediment to the voluntary, it differs not whether we call it ignorance or error, since no ignorance can be an impediment to the voluntary, unless it have error in conjunction with it, because the will’s act presupposes an estimate or judgment about something which is the object of the will. Wherefore if there be ignorance there must needs be error; and for this reason error is set down as being the proximate cause.

Reply to Objection 2. Although error is not of itself contrary to matrimony, it is contrary thereto as regards the cause of marriage.

Reply to Objection 3. The character of baptism is not caused directly by the intention of the baptizer, but by the material element applied outwardly; and the intention is effective only as directing the material element to its effect; whereas the marriage tie is caused by the consent directly. Hence the comparison fails.

Reply to Objection 4. According to the Master (*Sent. iv, D, 30*) the marriage between Lia and Jacob was effected not by their coming together, which happened through an error, but by their consent, which followed afterwards. Yet both are clearly to be excused from sin (*Sent. iv, D, 30*).

* Nemesius

Objection 1. It would seem that every error is an impediment to matrimony, and not, as stated in the text (Sent. iv, D, 30), only error about the condition or the person. For that which applies to a thing as such applies to it in all its bearings. Now error is of its very nature an impediment to matrimony, as stated above (a. 1). Therefore every error is an impediment to matrimony.

Objection 2. Further, if error, as such, is an impediment to matrimony, the greater the error the greater the impediment. Now the error concerning faith in a heretic who disbelieves in this sacrament is greater than an error concerning the person. Therefore it should be a greater impediment than error about the person.

Objection 3. Further, error does not void marriage except as removing voluntariness. Now ignorance about any circumstance takes away voluntariness (Ethic. iii, 1). Therefore it is not only error about condition or person that is an impediment to matrimony.

Objection 4. Further, just as the condition of slavery is an accident affecting the person, so are bodily or mental qualities. But error regarding the condition is an impediment to matrimony. Therefore error concerning quality or fortune is equally an impediment.

Objection 5. Further, just as slavery or freedom pertains to the condition of person, so do high and low rank, or dignity of position and the lack thereof. Now error regarding the condition of slavery is an impediment to matrimony. Therefore error about the other matters mentioned is also an impediment.

Objection 6. Further, just as the condition of slavery is an impediment, so are difference of worship and impotence, as we shall say further on (q. 52, a. 2; q. 58, a. 1; q. 59, a. 1). Therefore just as error regarding the condition is an impediment, so also should error about those other matters be reckoned an impediment.

Objection 7. On the other hand, it would seem that not even error about the person is an impediment to marriage. For marriage is a contract even as a sale is. Now in buying and selling the sale is not voided if one coin be given instead of another of equal value. Therefore a marriage is not voided if one woman be taken instead of another.

Objection 8. Further, it is possible for them to remain in this error for many years and to beget between them sons and daughters. But it would be a grave assertion to maintain that they ought to be separated then. Therefore their previous error did not void their marriage.

Objection 9. Further, it might happen that the woman is betrothed to the brother of the man whom she thinks that she is consenting to marry, and that she has had carnal intercourse with him; in which case, seemingly, she cannot go back to the man to whom she thought to give her consent, but should hold on to his brother. Thus error regarding the person is not an impediment to marriage.

I answer that, Just as error, through causing involuntariness, is an excuse from sin, so on the same count is it an impediment to marriage. Now error does not excuse from sin unless it refer to a circumstance the presence or absence of which makes an action lawful or unlawful. For if a man were to strike his father with an iron rod thinking it to be of wood, he is not excused from sin wholly, although perhaps in part; but if a man were to strike his father, thinking to strike his son to correct him, he is wholly excused provided he take due care. Wherefore error, in order to void marriage, must needs be about the essentials of marriage. Now marriage includes two things, namely the two persons who are joined together, and the mutual power over one another wherein marriage consists. The first of these is removed by error concerning the person, the second by error regarding the condition, since a slave cannot freely give power over his body to another, without his master's consent. For this reason these two errors, and no others, are an impediment to matrimony.

Reply to Objection 1. It is not from its generic nature that error is an impediment to marriage, but from the nature of the difference added thereto; namely from its being error about one of the essentials to marriage.

Reply to Objection 2. An error of faith about matrimony is about things consequent upon matrimony, for instance on the question of its being a sacrament, or of its being lawful. Wherefore such error as these is no impediment to marriage, as neither does an error about baptism hinder a man from receiving the character, provided he intend to receive what the Church gives, although he believe it to be nothing.

Reply to Objection 3. It is not any ignorance of a circumstance that causes the involuntariness which is an excuse from sin, as stated above; wherefore the argument does not prove.

Reply to Objection 4. Difference of fortune or of quality does not make a difference in the essentials to matrimony, as the condition of slavery does. Hence the argument does not prove.

Reply to Objection 5. Error about a person's rank, as such, does not void a marriage, for the same reason as neither does error about a personal quality. If, however, the error about a person's rank or position amounts to an error about the person, it is an impediment to matrimony. Hence, if the woman consent directly to this particular person, her error about his rank does not void the marriage; but if she intend directly to consent to marry the king's son, whoever he may be, then, if another man than the king's son be brought to her, there is error about the person, and the marriage will be void.

Reply to Objection 6. Error is an impediment to matrimony, although it be about other impediments to marriage if it concern those things which render a person an unlawful subject of marriage. But (the Master) does not mention error about such things, because they

are an impediment to marriage whether there be error about them or not; so that if a woman contract with a subdeacon, whether she know this or not, there is no marriage; whereas the condition of slavery is no impediment if the slavery be known. Hence the comparison fails.

Reply to Objection 7. In contracts money is regarded as the measure of other things (Ethic. v, 5), and not as being sought for its own sake. Hence if the coin paid is not what it is thought to be but another of equal value, this does not void the contract. But if there be error about a thing sought for its own sake, the contract is voided, for instance if one were to sell a donkey for a horse; and thus it is in the case in point.

Reply to Objection 8. No matter how long they

have cohabited, unless she be willing to consent again, there is no marriage.

Reply to Objection 9. If she did not consent previously to marry his brother, she may hold to the one whom she took in error. Nor can she return to his brother, especially if there has been carnal intercourse between her and the man she took to husband. If, however, she had previously consented to take the first one in words of the present, she cannot have the second while the first lives. But she may either leave the second or return to the first; and ignorance of the fact excuses her from sin, just as she would be excused if after the consummation of the marriage a kinsman of her husband were to know her by fraud since she is not to be blamed for the other's deceit.