

Objection 1. It would seem that the condition of slavery is no impediment to matrimony. For nothing is an impediment to marriage except what is in some way opposed to it. But slavery is in no way opposed to marriage, else there could be no marriage among slaves. Therefore slavery is no impediment to marriage.

Objection 2. Further, that which is contrary to nature cannot be an impediment to that which is according to nature. Now slavery is contrary to nature, for as Gregory says (Pastor. ii, 6), “it is contrary to nature for man to wish to lord it over another man”; and this is also evident from the fact that it was said of man (Gn. 1:26) that he should “have dominion over the fishes of the sea,” but not that he should have dominion over man. Therefore it cannot be an impediment to marriage, which is a natural thing.

Objection 3. Further, if it is an impediment, this is either of natural law or of positive law. But it is not of natural law, since according to natural law all men are equal, as Gregory says (Pastor. ii, 6), while it is stated at the beginning of the Digests (Manumissiones, ff. de just. et jure.) that slavery is not of natural law; and positive law springs from the natural law, as Tully says (De Invent. ii). Therefore, according to law, slavery is not an impediment to any marriage.

Objection 4. Further, that which is an impediment to marriage is equally an impediment whether it be known or not, as in the case of consanguinity. Now the slavery of one party, if it be known to the other, is no impediment to their marriage. Therefore slavery, considered in itself, is unable to void a marriage; and consequently it should not be reckoned by itself as a distinct impediment to marriage.

Objection 5. Further, just as one may be in error about slavery, so as to deem a person free who is a slave, so may one be in error about freedom, so as to deem a person a slave whereas he is free. But freedom is not accounted an impediment to matrimony. Therefore neither should slavery be so accounted.

Objection 7. Further, leprosy is a greater burden to the fellowship of marriage and is a greater obstacle to the good of the offspring than slavery is. Yet leprosy is not reckoned an impediment to marriage. Therefore neither should slavery be so reckoned.

On the contrary, A Decretal says (De conjug. servorum, cap. Ad nostram) that “error regarding the condition hinders a marriage from being contracted and voids that which is already contracted.”

Further, marriage is one of the goods that are sought for their own sake, because it is qualified by honesty; whereas slavery is one of the things to be avoided for their own sake. Therefore marriage and slavery are contrary to one another; and consequently slavery is an impediment to matrimony.

I answer that, In the marriage contract one party is bound to the other in the matter of paying the debt;

wherefore if one who thus binds himself is unable to pay the debt, ignorance of this inability, on the side of the party to whom he binds himself, voids the contract. Now just as impotence in respect of coition makes a person unable to pay the debt, so that he is altogether disabled, so slavery makes him unable to pay it freely. Therefore, just as ignorance or impotence in respect of coition is an impediment if not known but not if known, as we shall state further on (q. 58), so the condition of slavery is an impediment if not known, but not if it be known.

Reply to Objection 1. Slavery is contrary to marriage as regards the act to which marriage binds one party in relation to the other, because it prevents the free execution of that act; and again as regards the good of the offspring who become subject to the same condition by reason of the parent’s slavery. Since, however, it is free to everyone to suffer detriment in that which is his due, if one of the parties knows the other to be a slave, the marriage is none the less valid. Likewise since in marriage there is an equal obligation on either side to pay the debt, neither party can exact of the other a greater obligation than that under which he lies; so that if a slave marry a bondswoman, thinking her to be free, the marriage is not thereby rendered invalid. It is therefore evident that slavery is no impediment to marriage except when it is unknown to the other party, even though the latter be in a condition of freedom; and so nothing prevents marriage between slaves, or even between a freeman and a bondswoman.

Reply to Objection 2. Nothing prevents a thing being against nature as to the first intention of nature, and yet not against nature as to its second intention. Thus, as stated in De Coelo, ii, all corruption, defect, and old age are contrary to nature, because nature intends being and perfection, and yet they are not contrary to the second intention of nature, because nature, through being unable to preserve being in one thing, preserves it in another which is engendered of the other’s corruption. And when nature is unable to bring a thing to a greater perfection it brings it to a lesser; thus when it cannot produce a male it produces a female which is “a misbegotten male” (De Gener. Animal. ii, 3). I say then in like manner that slavery is contrary to the first intention of nature. Yet it is not contrary to the second, because natural reason has this inclination, and nature has this desire—that everyone should be good; but from the fact that a person sins, nature has an inclination that he should be punished for his sin, and thus slavery was brought in as a punishment of sin. Nor is it unreasonable for a natural thing to be hindered by that which is unnatural in this way; for thus is marriage hindered by impotence of coition, which impotence is contrary to nature in the way mentioned.

Reply to Objection 3. The natural law requires punishment to be inflicted for guilt, and that no one

should be punished who is not guilty; but the appointing of the punishment according to the circumstances of person and guilt belongs to positive law. Hence slavery which is a definite punishment is of positive law, and arises out of natural law, as the determinate from that which is indeterminate. And it arises from the determination of the same positive law that slavery if unknown is an impediment to matrimony, lest one who is not guilty be punished; for it is a punishment to the wife to have a slave for husband, and "vice versa."

Reply to Objection 4. Certain impediments render a marriage unlawful; and since it is not our will that makes a thing lawful or unlawful, but the law to which our will ought to be subject, it follows that the validity or invalidity of a marriage is not affected either by ignorance (such as destroys voluntariness) of the impediment or by knowledge thereof; and such an impediment is affinity or a vow, and others of the same kind. Other impediments, however, render a marriage ineffectual as to the payment of the debt; and since it is within the

competency of our will to remit a debt that is due to us, it follows that such impediments, if known, do not invalidate a marriage, but only when ignorance of them destroys voluntariness. Such impediments are slavery and impotence of coition. And, because they have of themselves the nature of an impediment, they are reckoned as special impediments besides error; whereas a change of person is not reckoned a special impediment besides error, because the substitution of another person has not the nature of an impediment except by reason of the intention of one of the contracting parties.

Reply to Objection 5. Freedom does not hinder the marriage act, wherefore ignorance of freedom is no impediment to matrimony.

Reply to Objection 6. Leprosy does not hinder marriage as to its first act, since lepers can pay the debt freely; although they lay a burden upon marriage as to its secondary effects; wherefore it is not an impediment to marriage as slavery is.