

Objection 1. It would seem that a marriage contracted by persons within the degrees of affinity or consanguinity ought not always to be annulled by divorce. For “what God hath joined together let no man put asunder” (Mat. 19:6). Since then it is understood that what the Church does God does, and since the Church sometimes through ignorance joins such persons together, it would seem that if subsequently this came to knowledge they ought not to be separated.

Objection 2. Further, the tie of marriage is less onerous than the tie of ownership. Now after a long time a man may acquire by prescription the ownership of a thing of which he was not the owner. Therefore by length of time a marriage becomes good in law, although it was not so before.

Objection 3. Further, of like things we judge alike. Now if a marriage ought to be annulled on account of consanguinity, in the case when two brothers marry two sisters, if one be separated on account of consanguinity, the other ought to be separated for the same reason. and yet this is not seemly. Therefore a marriage ought not to be annulled on account of affinity or consanguinity.

On the contrary, Consanguinity and affinity forbid the contracting of a marriage and void the contract. Therefore if affinity or consanguinity be proved, the parties should be separated even though they have actually contracted marriage.

I answer that, Since all copulation apart from lawful marriage is a mortal sin, which the Church uses all her endeavors to prevent, it belongs to her to separate those between whom there cannot be valid marriage, especially those related by blood or by affinity, who cannot without incest be united in the flesh.

Reply to Objection 1. Although the Church is up-

held by God’s gift and authority, yet in so far as she is an assembly of men there results in her acts something of human frailty which is not Divine. Therefore a union effected in the presence of the Church who is ignorant of an impediment is not indissoluble by Divine authority, but is brought about contrary to Divine authority through man’s error, which being an error of fact excuses from sin, as long as it remains. Hence when the impediment comes to the knowledge of the Church, she ought to sever the aforesaid union.

Reply to Objection 2. That which cannot be done without sin is not ratified by any prescription, for as Innocent III says (Conc. Later. iv, can. 50: cap. Non debent, De consang. et affinit.), “length of time does not diminish sin but increases it”: nor can it in any way legitimize a marriage which could not take place between unlawful persons.

Reply to Objection 3. In contentious suits between two persons the verdict does not prejudice a third party, wherefore although the one brother’s marriage with the one sister is annulled on account of consanguinity, the Church does not therefore annul the other marriage against which no action is taken. Yet in the tribunal of the conscience the other brother ought not on this account always to be bound to put away his wife, because such accusations frequently proceed from ill-will, and are proved by false witnesses. Hence he is not bound to form his conscience on what has been done about the other marriage: but seemingly one ought to draw a distinction, because either he has certain knowledge of the impediment of his marriage, or he has an opinion about it, or he has neither. In the first case, he can neither seek nor pay the debt, in the second, he must pay, but not ask, in the third he can both pay and ask.