

one must take it that a simple priest is an extraordinary minister of the Orders of Diaconate and Presbyterate, just as he is an extraordinary minister of Confirmation. In this latter view, the requisite power of consecration is contained in the priestly power of consecration as a "bound power" (*potestas ligata*). However, a particular pontifical delegation, either by virtue of a divine or ecclesial ordinance, is necessary for its valid exercise.

## § 6. The Recipient of the Sacrament of Holy Orders

**The Sacrament of Holy Orders can be validly received by a baptised person of the male sex only.** [*Sent. certa.*] CIC [1917] 968 § 1; CIC [1983] 1024.

That males only are empowered to receive the Sacrament of Holy Orders rests on positive divine law. Christ called men only to the apostolate. According to the testimony of Sacred Scripture (cf. 1 Cor. 14:34ff.; 1 Tim. 4:14ff.) and according to the standing practice of the Church, the hierarchical powers were handed on to men only. Cf. Tertullian, *De praescr.* 41; *De virg. vel.* 9.

In the early Christian Church the *deaconesses* formed a special rank, which approached that of the clergy, and, according to the *Apostolic Constitutions* (VIII 19ff.) and the Imperial Legislation (Justinian), they were even ranked with the clergy. They were ordained by a rite peculiar to them, according to the *Apostolic Constitutions* (VIII 19ff.), with imposition of hands and prayer. But they were denied priestly functions. Cf. St. Hippolytus, *Trad. Apost.*; the First Council of Nicaea can. 19; St. Epiphanius, *Haer.* 79, 3; *Const. Apost.* VIII 28, 6. Their principal duties were to assist at the Baptism of women and to care for the poor and sick.

The ordination of a baptised *minor* as deacon, priest or bishop is valid, but not licit. An adult must have the intention of receiving ordination. On account of the obligations to be assumed, a virtual intention is probably requisite.

For the licit reception of Holy Orders the conditions prescribed by the Church must be exactly followed. A state of grace is necessary for the *worthy* reception of the Sacrament.

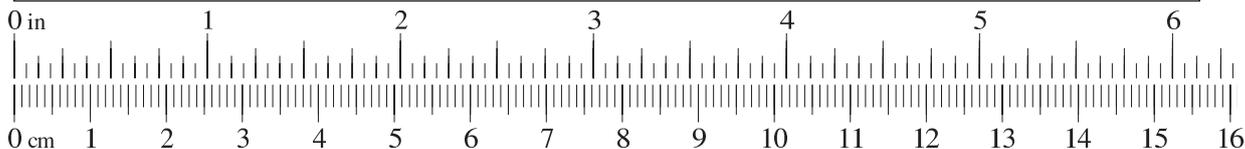
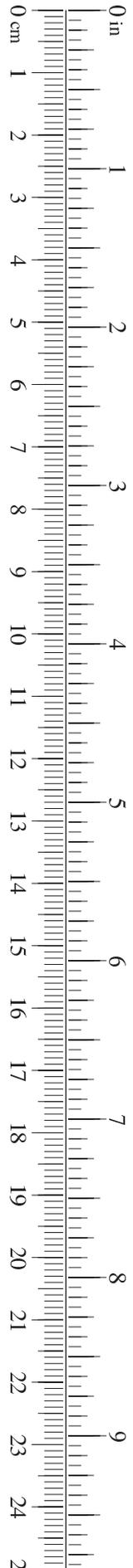
## VII. THE SACRAMENT OF MATRIMONY

### § 1. Concept, Origin and Sacramental Nature of Matrimony

#### 1. Concept of the Sacrament of Matrimony

Christian marriage is the Sacrament in which two marriageable people of the opposite sex, by mutual consent, join together in an undivided communion of life and receive the grace to fulfill the special duties of their state.

In harmony with the theologians (cf. Peter Lombard, *Sent.* IV 27, 2), the *Roman Catechism* (II 8, 3), gives the following definition modelled on the definition of the concept in Roman Law: "Matrimony is the nuptial union of man and woman contracted between two eligible persons, which obliges them to live together through-



out life." (*Matrimonium est viri et mulieris maritalis coniunctio inter legitimas personas, individuum vitae consuetudinem retinens.*) However, this definition lacks the element of the communication of grace which is essential for Christian marriage.

## 2. Divine Origin of Marriage

**Marriage was not instituted by man, but by God.** [*Sent. certa.*] DH 3700ff. Cf. Vat. II, *Gaudium et spes* 48.

Marriage, as an arrangement of nature (*officium naturae*), is of divine origin. God created mankind as men and women (Gen. 1:27), and implanted in human nature the urge for reproduction. He blessed the first human pair and, in a special revelation, conveyed to them the divine mandate of procreation: "Increase and multiply and fill the earth" (Gen. 1:28).

The divine origin of marriage was disputed by the *Gnostic-Manichaean sects* of antiquity and of the Middle Ages. Starting from the dualistic doctrine that matter is the seat of evil, they rejected marriage, through which the matter of the body is reproduced, as the source of evil. Under the influence of Platonic spiritualism, *St. Gregory of Nyssa* (*De opif. hom.* 17) declared the sexual differentiation of mankind, and the marriage which is founded on it, to be consequences of sin, foreseen by God. *St. Thomas* rejected the teaching of *St. Gregory* (*S.th.* I 98, 2). *St. Jerome* also erroneously associates the origin of marriage with the Fall (*Ep.* 22, 19).

## 3. Sacramental Nature of Marriage

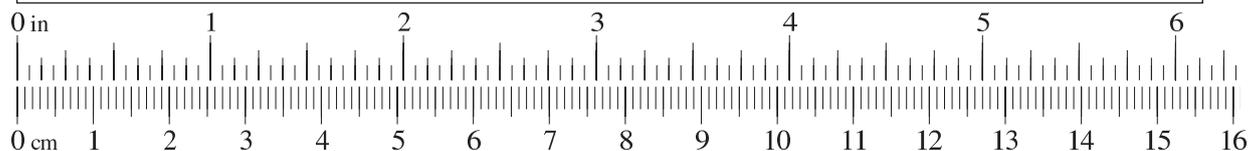
### a) Dogma

**Marriage is a true and proper Sacrament instituted by God.**  
[*De fide.*]

Christ brought marriage, which was ordained and blessed by God, back again to the original ideal of the indissoluble monogamous marriage (Matt. 19:3ff.), and elevated it to the dignity of a Sacrament. The Council of Trent defined against the Reformers, who denied that marriage was a sacrament and regarded marriage as an "outward secular affair" (Luther): "If anyone says that matrimony is not truly and properly one of the seven sacraments of the law of the Gospel instituted by Christ the Lord, but that it was devised in the Church by men and does not confer grace, let him be anathema." (*Si quis dixerit, matrimonium non esse vere et proprie unum ex septem Legis evangelicae sacramentis, a Christo Domino institutum, sed ab hominibus in Ecclesia inventum, neque gratiam conferre, anathema sit.*) DH 1801; cf. 718, 794, 860, 1327. *St. Pius X* rejected the denial of the divine institution of the Sacrament of Matrimony on the part of the Modernists. DH 3451. Cf. the Syllabus of Errors of *Bl. Pius IX* (1864) and the Encyclicals on marriage: *Arcanum* of *Leo XIII* (1880) and *Casti connubii* of *Pius XI* (1930). DH 2965ff., 3142, 3700ff.

### b) Scriptural proof

*St. Paul* stresses the religious character of marriage by demanding that it be contracted "in the Lord" (1 Cor. 7:39), and by proclaiming its indissol-



ubility in virtue of the Lord's command (1 Cor. 7:10). The dignity and the sanctity of Christian marriage is established by St. Paul on the fact that it is an image of Christ's union with His Church. Eph. 5:32: "This is a great Sacrament: but I speak in reference to Christ and the Church." As the union of Christ with the Church is a rich source of grace for the members of the Church, so marriage—if it is to be a perfect image of the grace-conferring union of Christ with the Church—must not be an empty symbol, as it had been in the pre-Christian era, but an efficacious sign of grace. The communication of grace could, however, be effected by marriage only in virtue of Christ's ordinance.

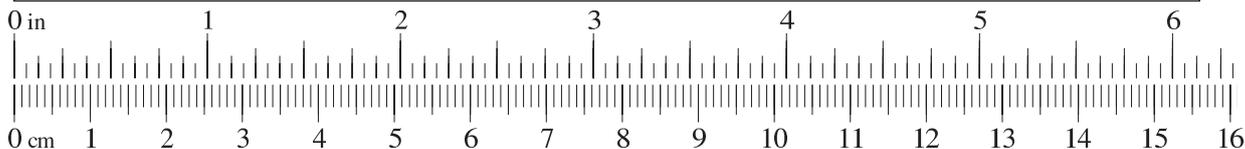
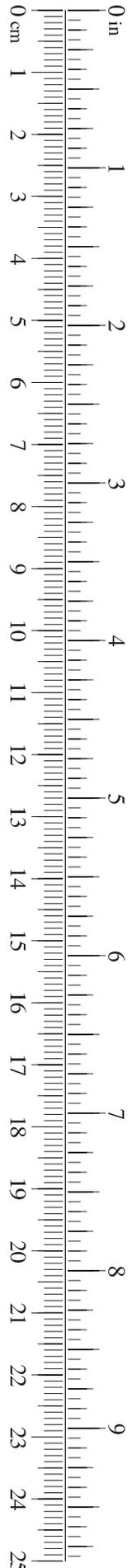
The words of the Apostle do not constitute a completely valid proof of the communication of grace essential to the concept of a Sacrament. The word sacramentum (μυστήριον) has only the general meaning of "mystery." The comparison of Christian marriage with the grace-bestowing union of Christ with His Church is, however, as the Council of Trent stresses, an indication of the grace bestowed by the sacrament of marriage (DH 1799: *Quod Paulus Apostolus innuit*).

### c) Proof from Tradition

From the beginning the Fathers regarded marriage as a religious affair. *St. Ignatius of Antioch* († about 107) demands the cooperation of the Church in the contracting of marriage: "It befits the bridegroom and the bride to enter the nuptial relationship with the approval of the bishop so that the marriage may be according to the Lord and not according to concupiscence" (*Pol.* 5, 2). *Tertullian* also attests that marriage was contracted before the Church: "How shall I be able to describe the happiness of a marriage which the Church performs, the offering of the sacrifice ratifies, and the blessing seals, to which the angels assent, and which the Heavenly Father recognises?" (*Ad uxorem* II 9).

*St. Augustine* defends the dignity and sanctity of Christian marriage against the Manichaeans who rejected marriage as a source of evil (*De moribus ecclesiae catholicae et de moribus Manichaeorum*, written c. 389), against Jovinian, who accused the Church of belittling marriage (*De bono coniugali*, written c. 401), and against the Pelagians, who held the dignity of Matrimony as a Sacrament to be incompatible with the doctrine of original sin (*De nuptiis et concupiscentia*, written c. 419/420). *St. Augustine's* teaching concerning the three goods of marriage became the common property of later theology: *proles* (children), *fides* (matrimonial loyalty), *sacramentum* (sign of the indissoluble link of Christ with the Church according to Eph. 5:32, therefore synonymous with indissolubility). However, *St. Augustine* did not expressly mention the grace conferred by this Sacrament. In Christ's participation in the marriage feast of Cana the Fathers see a recognition and a hallowing of Christian marriage, as they see a hallowing of the water for administration of the Sacrament of Baptism in the Baptism of Jesus in the Jordan. Cf. *St. Augustine*, *De bono coniugali* 3, 3; *St. John Damascene*, *De fide orth.* IV, 24.

It was only in the times of the Scholastics that the sacramental nature of marriage achieved formal recognition. The separated Churches of the East likewise regard it as a Sacrament.



## § 2. The Ends and Properties of Matrimony

### 1. The Ends

**The essential end of Marriage is the procreation and education of offspring. The secondary end is mutual help and the morally regulated satisfaction of the sexual instinct.** [*Sent. certa.*] CIC [1917] 1013 § 1; Vat. II, *Gaudium et spes* 48-49; cf. CIC [1983] 1055 § 1.

In their efforts to appreciate marriage more as a personal communion, some recent theologians have proposed—against the traditional teaching of the purpose of marriage, whose principal exponent is St. Thomas—that the primary purpose of marriage is the mutual completion and personal perfection of the marriage partners, or their mutual love and unity. The Holy Office, in the year 1944, in answer to an enquiry, reasserted the traditional teaching. DH 3838. The Second Vatican Council, which strongly emphasizes the personal character of the marital relationship, mentioned the two purposes of marriage in the conventional order, but without, however, placing the second in subordination to the first (*Gaudium et spes* 48, 1). From the question of the purpose of marriage as an institution one should distinguish the question of the purpose of each conjugal act, which, according to the teaching of recent theologians, is realized in the expression of the body-soul surrender of love.

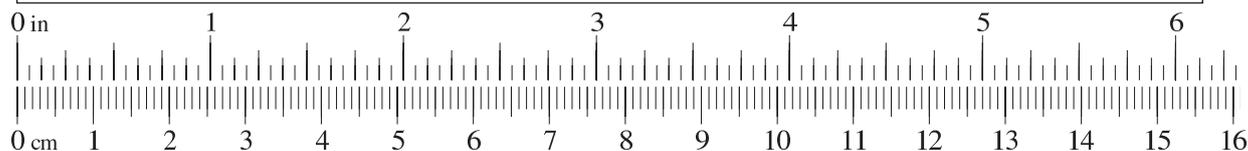
The primary purpose is expressed in Gen. 1:28: “Be fruitful and multiply and fill the earth!” The secondary purpose is expressed in Gen. 2:18: “Let us make a suitable partner for him like unto himself,” and in 1 Cor. 7:2: “On account of fornication (i.e. because of the danger of fornication), let every man have his own wife: and let every woman have her own husband.”

### 2. Properties

**The essential properties of Marriage are unity (monogamy) and indissolubility.** [*Sent. certa.*] CIC [1917] 1013 § 2; CIC [1983] 1056.

#### a) Unity

The Council of Trent declared against Luther, who, invoking the example of the Old Testament, recognised the double marriage of Count Philip of Hesse: “Christians are forbidden by divine law to have several wives at the same time.” DH 1802. The canon was directed against the usual form of simultaneous polygamy, namely polygyny (having several wives). Polyandry (having several men) is prohibited by the natural law, as it hinders or at least gravely endangers the primary purpose of marriage. Cf. DH 1797, 3706ff.; *S.c.G.* III 124. God instituted marriage in Paradise as a monogamous institution (Gen. 1:28; 2:24). But mankind soon lapsed from the original ideal of monogamy (Gen. 4:19). Polygamy was widely extended in the Old Covenant also (the Patriarchs, Saul, David). It was recognised in the Jewish Law (Dt. 21:15ff.), which implies a divine dispensation. Christ restored marriage to its original purity. Invoking Gen. 2:24, He declares: “Therefore now they are not two, but one flesh. What therefore God has joined to-



gether, let no man put asunder" (Matt. 19:6). He declares that the putting away of a wife and the entering into a new marriage is adultery (Matt. 19:9). According to the teaching of St. Paul, marriage has a strong monogamous character. Cf. Rom. 7:3; 1 Cor. 7:2; Eph. 5:32ff.

In their descriptions of the morally pure life of the Christians, the Christian apologists expressly stress the observation of monogamy. *Theophilus of Antioch* remarks: "Among them wise self-control is found, abstinence is practised, monogamy is observed, and chastity is preserved" (*Adv. Autol.* III 15). Cf. Minucius Felix, *Oct.* 31, 5.

Speculatively, the rectitude of monogamy is established, by the fact that it alone guarantees the fulfilling of all the purposes of marriage, and is a faithful image of Christ's union with the Church. *Suppl.* 65, 1; *S.c.G.* IV 78.

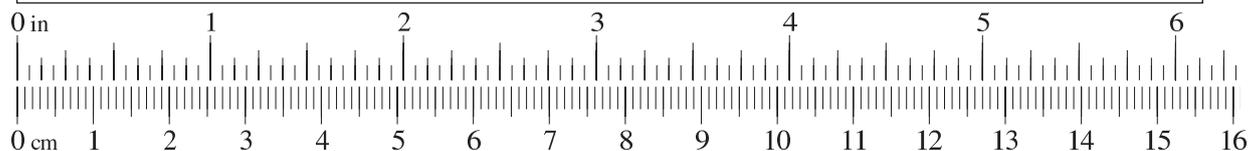
### b) Indissolubility

#### (α) Inner indissolubility

The Council of Trent declared that the bond of marriage cannot be dissolved on account of heresy, or of difficulties in living together, or the willful absence of one marriage partner (DH 1805) and that the Church does not err when she has taught and teaches that according to evangelical and apostolic doctrine, the bond of Matrimony cannot be dissolved on account of the adultery of one of the parties (DH 1807). Both canons are addressed immediately to the Reformers, but the latter applies to the Greek Orthodox Church also, which, based on Matt. 5:32 and Matt. 19:9 and the teaching of some Greek Fathers, permits the dissolution of the bond of Matrimony in the case of adultery. The doctrinal decisions of the Council of Trent have in mind Christian marriage only. But according to God's ordinance (*iure divino*) made at the institution of marriage, every marriage, including the marriage of the unbaptised (*matrimonium legitimum*) is intrinsically indissoluble. Cf. DH 3710ff.

To the question of the Pharisees, asking whether it was permitted to the husband to divorce his wife for any reason, *Jesus* responds by alluding to Gen. 2:24: "What God has joined together let no man separate" (Matt 19:6). To the objection that Moses commanded that the man give the woman a bill of divorce and then dismiss her (Dt. 24:1), *Jesus* replies: "Because of the hardness of your hearts Moses allowed you to divorce your wives, but from the beginning it was not so" (Matt. 19:8). *Jesus* reestablishes the primitive order created by God by declaring: "Whoever divorces his wife, except in the case of fornication, and marries another commits adultery" (Matt. 19:9).

The so-called fornication clause (μή ἐπι πορνεία), which in a somewhat different form is found in Matt. 5:32, also (παρεκτός λόγου πορνείας), but which does not appear in the parallel passages Mark 10:11 and Luke 16:18, does not, according to the context, imply an exception to the law of indissolubility: for it was *Jesus'* intention to restore the original order, which did not know divorce, and to set up His new commandment in conscious antithesis to the lax Law of Moses (cf. Matt. 5:31ff.). Unless one wishes to destroy the antithesis and create a contradiction between St. Matthew on the one side and Sts. Mark and Luke (such as 1 Cor. 7:10ff.) on the oth-



er side, one must either understand the clause in the traditional excluding sense, according to which it indeed permits, by way of exception, the putting away of the woman, but not subsequent remarrying, that is, the so-called separation from bed and board, or in the inclusive sense, according to which an exception from the prohibition of divorce is not laid down, but that the ground for divorce provided for in Dt. 24:1 (*erwath dabar* = something scandalous) is drawn into the prohibition of divorce. In the latter interpretation the clause must be conceived and translated as a parenthesis: "He that puts away his wife—and even if she is guilty of unchaste behaviour (he must not dismiss her)—and marries another, commits adultery" (Matt. 5:32: "excepting for the cause of fornication"). Against the first explanation, which has been traditional since the time of St. Jerome, there is the difficulty that a mere outward separation with a continuation of the bond of marriage was unknown to the Jews. Against the second explanation (K. Staab) philological doubts are adduced. Another possible explanation (J. Bonsirven) understands the word "fornication" in the special meaning of an illegitimate (incestuous) association (cf. 1 Cor. 5:1); he claimed that this alone justifies and demands divorce. Cf. Acts 15:20,29.

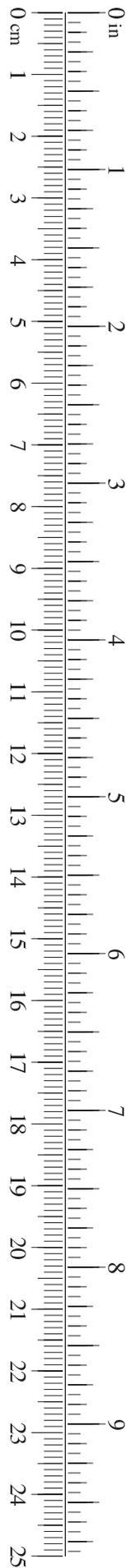
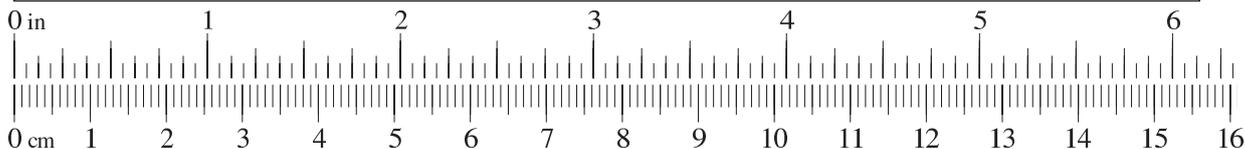
*St. Paul* proclaims to married people, as a commandment of the Lord, that the woman may not leave the man and that the man may not put away the woman. But if one party goes away from the other the deserted party must remain unmarried (1 Cor. 7:10ff.). The woman who unites with another man during the lifetime of her husband is an adulteress (Rom. 7:3); only on the death of her husband is she free for another union (Rom. 7:2; 1 Cor. 7:39).

The *Fathers* of the first centuries almost all expound the view that in the case of adultery the dismissal of the guilty party is permitted, but that a subsequent remarriage is forbidden. Cf. *Pastor Hermae*, Mand. IV 1, 6; St. Justin, *Apol.* 1, 15; Clement of Alexandria, *Strom.* II 23, 145, 3; Origen, *In Matth.* XIV 24; individual Fathers, St. Basil (*Ep.* 188 can. 9), St. Epiphanius (*Haer.* 59, 4) and Ambrosiaster (commenting on 1 Cor. 7: 11) in view of Matt. 5:32 and 19:9, and influenced by the state of legislation, allowed the man the right to the dissolution of the marriage and to marry again in the case of adultery of the woman. A defender of the absolute indissolubility of marriage, even in the case of adultery, is St. Augustine. Cajetan, Ambrosius Catharinus and Erasmus of Rotterdam fall back on Ambrosiaster's interpretation, but as against the Reformers, insist that the dissolution of marriage can be accomplished by the Church authority only (outward dissolubility).

The intrinsic reasons for the indissolubility of marriage are the assuring of the physical and moral education of the children, the protection of marital fidelity, the imitation of the indissoluble union of Christ with His Church, and the welfare of the family and society.

**(β) Outward dissolubility in determined cases**

While a ratified and consummated Christian marriage (*matrimonium ratum et consummatum*)—which is a perfect image of the indissoluble union of Christ with the Church created by the Incarnation—is indissoluble as to the bond, and cannot be dissolved by any human authority (CIC [1917] 1118; CIC [1983] 1141), it is the centuries-old teaching and practice of the Church that a Christian marriage which has been *ratified but not consum-*



mated (*matrimonium ratum non consummatum*) can be dissolved as to the bond either by a *solemn religious profession* of one partner or by a *dispensation* of the Apostolic See granted for weighty reasons. DH 1806; CIC [1917] 1119; cf. CIC [1983] 1142.

*Pope Alexander III* (1159-1181), invoking the example of certain saints, permitted that one of the partners may, before the consummation of the marriage—even against the will of the other—enter the religious state and the other remarry, since they had never become “one flesh” (DH 755); similarly *Pope Innocent III* (DH 786) and subsequent legislation. Scholastic Theology regards the entering into a monastery as spiritual death, in which one dies to the world. Cf. *Suppl.* 61, 2.

The beginnings of the Papal *dispensation* regarding a non-consummated marriage go back to Alexander III. The Papal power of dispensation was generally affirmed by canonists since the 13<sup>th</sup> century; on the other hand, it was mostly denied by theologians. In view of decisions of Popes Martin V and of Eugene IV who make use of the power of dispensation, St. Antoninus of Florence († 1459) and John of Torquemada († 1468) took up a mediatory standpoint. In subsequent times the affirmative view which appealed to the Papal practice of dispensation came more and more to the fore, in spite of the resistance of numerous theologians, until it became the general teaching under Benedict XIV (1740 to 1758).

On the ground of the *Pauline Privilege* (1 Cor. 7:12ff.), a marriage contracted and even consummated between two unbaptised persons (*matrimonium legitimum*) can be dissolved as to the bond, if one party to the marriage is baptised, and the other party refuses to continue to live with him peacefully in the married state.

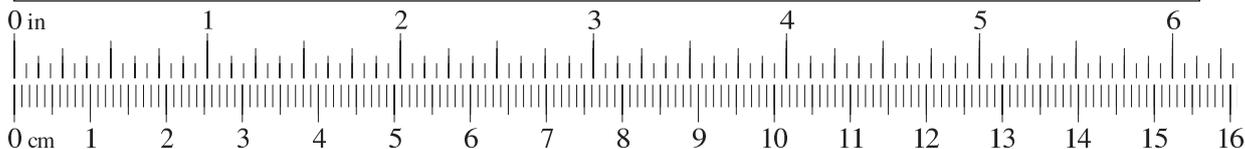
In the Tradition of the Church, the dissolution of the bond of marriage by the “privilege of faith” is first expounded by *Ambrosiaster*: “For an insult toward the Creator dissolves the obligation of matrimony with respect to the one who is abandoned, and this one should not be accused if joined to another” (*Contumelia enim Creatoris solvit ius matrimonii circa eum, qui relinquitur, ne accusetur alii copulatus*. See also 1 Cor. 7:15). As against this St. Augustine understands the divorce permitted by St. Paul to signify not a dissolution of the bond but merely a separation. Church teaching (Gratian, Peter Lombard) and legislation (Clement III, Innocent III) sided with *Ambrosiaster*. Cf. DH 768ff.; CIC [1917] 1120–1127; CIC [1983] 1143–1147.

### §3. The Outward Sign of the Sacrament of Matrimony

#### 1. Identity of the Sacrament of Matrimony with the Contract of Marriage

**Every valid contract of Marriage between Christians is of itself a sacrament.** [*Sent. certa.*]

Since Christ elevated natural marriage, which consisted essentially in the contract of marriage, to the dignity of a Sacrament and an efficacious sign of grace, the Sacrament of Matrimony coincides materially with the contract of marriage. Consequently every valid contract of marriage between Christians is, on the ground of positive divine ordinance, at the same time a Sacrament. According to the *Decretum pro Armenis*, the mutual declaration



of will of the pair to be married (not the priestly blessing!) is the efficient cause of the Sacrament of Matrimony (DH 1327). According to the teaching of the Council of Trent, those clandestine marriages contracted without the cooperation of the Church by the free declaration of will of the contracting parties are valid marriages so long as the Church does not declare them invalid. (Decree *Tametsi*; DH 1813ff.) Cf. DH 643, 766, 776.

Popes Pius IX, Leo XIII and Pius XI expressly declared that in Christian marriage the Sacrament of Matrimony cannot be separated from the contract of marriage, and that on account of this, "among Christians every true marriage is, in itself and by itself, a sacrament" (*omne inter Christianos iustum coniugium in se et per se esse sacramentum*; Leo XIII, DH 3146). Cf. Denzinger-Rahner 1640 [DH 2991 cit.], DH 2966, 2973, 3713; CIC [1917] 1012; CIC [1983] 1055 § 2.

## 2. The Contract of Marriage as a Sacramental Sign

It follows from the material identity of the Sacrament of Matrimony with the contract of marriage that the outward sign of the Sacrament of Matrimony lies exclusively in the contract of marriage, that is, in the mutual declaration of will of the bridal pair by words or sign. To the extent that these declarations designate the handing over (*traditio*) of the right to conjugal community (*ius in corpus*), they can be regarded as the matter, to the extent that they designate the acceptance (*acceptatio*) of this right, they can be regarded as the form of the Sacrament. (Cf. CIC [1917] 1081 § 2, CIC [1983] 1057 § 2.)

The priest's blessing does not pertain to the essence of the Sacrament; it is a sacramental, which is added to the sacrament.

## 3. False Opinions

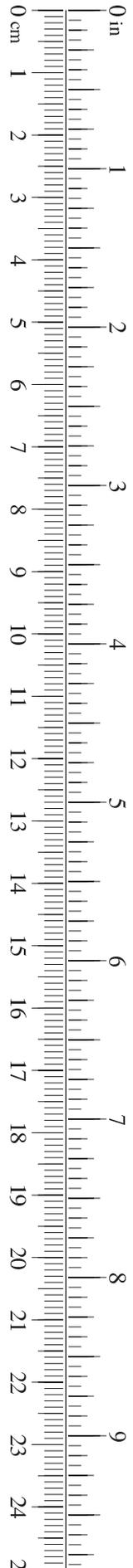
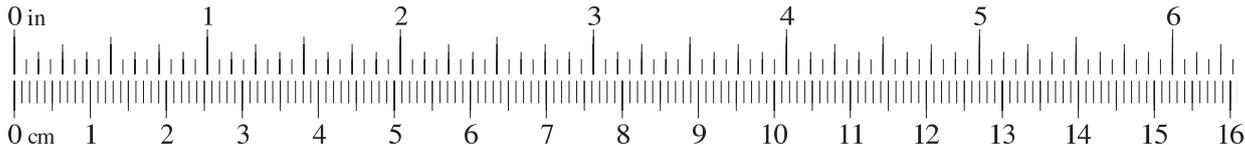
Incompatible with the above-mentioned teachings of the Church are all attempts to separate the contract of marriage from the Sacrament of marriage:

a) *Melchior Cano, O.P.* († 1560), thought that the marriage-contract was the "Matter" of the Sacrament and the blessing of the priest the "Form." Estius, Sylvius, Toletus, Tournely and others followed this view.

b) *Gabriel Vasquez, S.J.* († 1604) brought the entire external sign of the sacrament into the contract of marriage; but by doing so he made the sacramentality depend on the intention of the spouses having the sacrament in view; Billuart, Gonet, and others taught the same.

c) Numerous *Gallican* and *Josephinist* Theologians (e.g. *Marco Antonio de Dominis* † 1624, *Jean Launoy* † 1678), in the interest of Civil Marriage, placed the outward sign of the Sacrament of Matrimony exclusively in the priestly blessing, and regarded the contract of marriage simply as a precondition of the Sacrament of Matrimony.

In *Greek Orthodox* theology the view that the contract of marriage is distinct from the Sacrament of Matrimony has become dominant since the 19<sup>th</sup> century. Most Greek Orthodox theologians regard the reciprocal consent of the bridal pair as the matter, and the prayer and blessing of the priest as the form of the Sacrament,



and accordingly hold the priest to be the minister of the Sacrament. Some modern Russian theologians would place the whole sacramental sign in the religious rite performed by the priest.

#### §4. The Effects of the Sacrament of Matrimony

##### 1. Bond of Matrimony

**From the sacramental contract of marriage emerges the Bond of Marriage, which binds both marriage partners to a lifelong indivisible partnership of life.** [*Sent. certa.*] DH 1797.

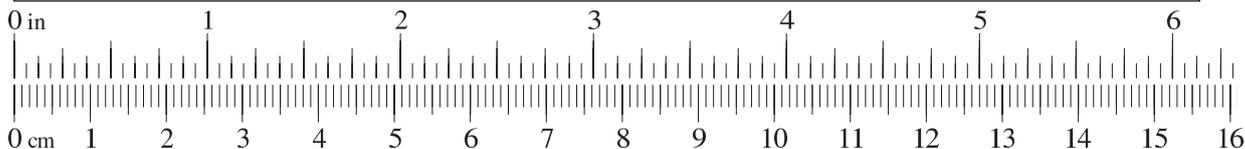
St. Augustine compares the bond of marriage (*quiddam coniugale*) "which can be removed neither by the separation of the marriage partners nor by the association with another," to the character of Baptism which cannot be lost (*De nuptiis et concup.* I 10, 11). Matrimony is not, like Baptism, absolutely unrepeatable; however, it is relatively unrepeatable, that is, during the lifetime of the other marriage partner. After the death of one of the parties, the surviving partner may contract a second and further marriages. The Church, in consonance with the teaching of the Apostle St. Paul (Rom. 7:2ff.; 1 Cor. 7:8ff., 39ff.; 1 Tim. 5:14ff.), has always firmly held the liceity of remarriage after the death of one partner against the heretical views of the Montanists and the Novatianists, and against the rigoristic movements in the Greek Church (Athenagoras, *Suppl.* 33: on second marriage as "respectable adultery"; St. Basil, *Ep.* 188. can. 4). The Council of Florence declared in the *Decretum pro Iacobitis*, that not only a second, but also a third or fourth or further marriages are permitted. (DH 794, 837, 860, 1353; CIC [1917] 1142.)

##### 2. The Grace of Matrimony

**The Sacrament of Matrimony bestows sanctifying grace on the contracting parties.** [*De fide.*]

The Council of Trent declared: "If anyone says matrimony ... does not confer grace, let him be anathema." (*Si quis dixerit, matrimonium ... neque gratiam conferre, anathema sit.*) DH 1801; cf. 1799. As a Sacrament of the living, the Sacrament of Matrimony effects *per se* an increase of sanctifying grace. The grace conveyed by the Sacrament of Matrimony is adapted in a special manner to the purpose of this Sacrament: it sanctifies the marriage partners and gives them supernatural strength for the fulfilment of the duties of their state. Together with the sanctifying grace there is bestowed also a claim to those actual graces, which the husband and wife "will receive as often as they require it for the fulfilment of the duties of their station" (Pius XI) DH 3713–3714.

In the period of early Scholasticism and at the commencement of the peak period of Scholasticism many theologians (for example, the disciples of Abelard, Hermann, Peter Lombard, Peter the Cantor), and many canonists (for example, the *Glossa ordinaria* to Gratian's *Decretals*, Bernard of Pavia, Henry of Segusia), by reason of their inadequate analysis of the sacramental nature of marriage, expounded the untenable opinion that the Sacrament of Matrimony, while indeed being a means



of salvation against evil, did not bestow sanctifying grace. St. Thomas, logically applying to it the qualities of a Sacrament, teaches that Matrimony, like the other Sacraments of the New Covenant, is not a mere symbol, but also a cause of grace. Cf. *S.c.G.* IV 78; *Suppl.* 42, 3.

## § 5. Minister and Recipient of the Sacrament of Matrimony

### 1. The Contracting Parties as Both Ministers and Recipients of the Sacrament

**The contracting parties in Matrimony minister the Sacrament to each other.** [*Sent. certa.*]

Since the essence of the Sacrament of Matrimony lies exclusively in the contract of marriage (see § 3 above), the two contracting parties are both ministers and recipients of the Sacrament. Each administers it to the other, by accepting the other's word of affirmation.

The priest who as a representative of the Church confirms the consent of marriage and blesses the marriage, is only an official witness to the contraction of the marriage and the minister of the accompanying ceremonies. The law of the Church provides, in exceptional cases, for the contraction of a valid marriage without the assistance of a priest. CIC [1917] 1098; CIC [1983] 1112.

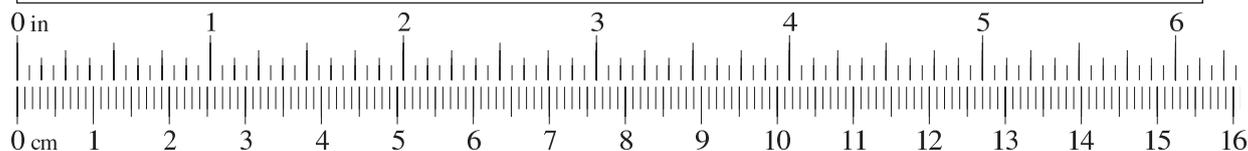
### 2. Validity

For the validity of the ministration and reception of the Sacrament of Matrimony, the following are requisites: Both parties must: a) have been baptised; b) have at least the virtual intention of doing what the Church does; c) be free from invalidating impediments to marriage; and d) adhere to the form prescribed by the Church (before the Parish Priest and two witnesses: CIC [1917] 1094; cf. CIC [1983] 1108 § 1) in so far as the law of the Church does not provide an exception (CIC [1917] 1098; 1099; cf. CIC [1983] 1108 § 1: the non-Catholics marrying between themselves).

It is controverted whether the marriage of a baptised person with one not baptised is a sacramental marriage for the baptised person, and whether the existing natural marriage of two unbaptised persons is raised to a sacramental marriage on their baptism. The first question must be answered affirmatively, as the baptised partner is capable of receiving the Sacrament, and the unbaptised partner is capable of administering it. Against the second question (on whether a natural marriage becomes a sacrament by the baptism of the parties) there is the fact that the consummation of the marriage concludes and finalises the Sacrament of Matrimony. On the other hand, it seems to be a great hardship if the married partners who have become Christians must be deprived of the grace of the Sacrament of Matrimony for their whole life long.

### 3. Liceity and Worthiness

For the *liceity* of the administration and the reception of marriage it is necessary that the parties be free from diriment and/or prohibiting impediments.



The state of grace also is necessary for worthy reception. It is a probable view held by many theologians that if the Sacrament be received unworthily, it is revived if the parties later are received back into the state of grace.

## § 6. The Church's Power over Matrimony

### 1. Jurisdiction of the Church

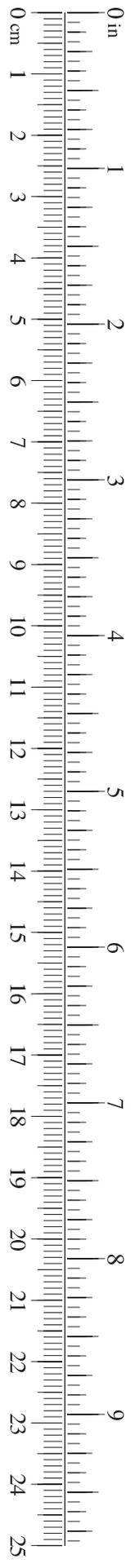
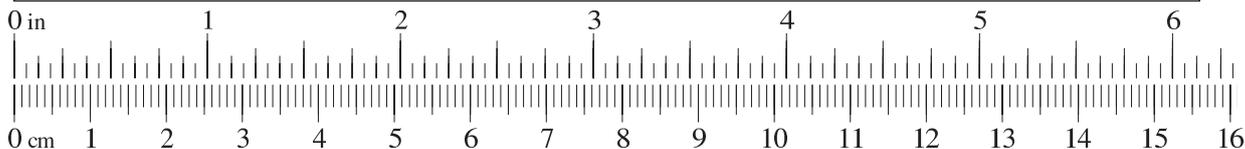
**The Church possesses the sole and exclusive right to make laws and administer justice in the matrimonial affairs of baptised persons, in so far as these affect the Sacrament.** [*Sent. certa.*] Cf. CIC [1917] 1016, 1960; CIC [1983] 1075.

The Council of Trent defined, against the Reformers, that the Church possesses the right of extending those impediments to marriage of consanguinity and affinity mentioned in Lev. 18:6ff. and of laying down other diriment impediments; of dispensing from some (in so far as they are not of the nature of natural law or of positive divine ordinance, cf. DH 1803-04, 1809) and of bringing marital affairs before her Court (DH 1812). Pope Pius VI rejected as heretical the assertion of the Synod of Pistoia (1786) that the Church could not of her own power (*iure proprio*) set up diriment impediments, or dispense from them, but only by virtue of the right transferred to her by the power of the State. DH 2659. Cf. the Syllabus of Errors of Pius IX, Prop. 68-70 (DH 2968-2970). On Canon 12 of the Council of Trent (DH 1812), Pius VI gave the authentic declaration that all marital matters of baptised persons are subject to the jurisdiction of the Church exclusively, because Christian marriage is one of the Seven Sacraments of the New Covenant, the administration of which belongs to the Church exclusively. DH 2598; cf. 2974.

The beginnings of a body of marriage legislation proper to the Church may be seen in the writings of the Apostle St. Paul (1 Cor. 7). Since the fourth century, Church Synods set up diriment impediments to marriage, for example, the Synods of Elvira (about 306; can. 15: difference in religion), of Neocaesarea (between 314/325; can. 2: affinity deriving from marriage) and in Trullo (692; can. 53: spiritual relationship). The Christian Emperors also claimed for themselves the right of making marriage laws, but to a certain extent took cognisance of the Church's position. Thus, in Civil Law, the right of divorce was limited, nevertheless it was admitted by the law and was very widespread. In the early Middle Ages the exclusive authority of the Church in the making of marriage laws for Christians and her exclusive jurisdiction in regard to the dissolution of the bond gradually gained the upper hand in the unwavering struggle against unchristian conceptions. The development of the complete Christian marriage discipline reached its perfection in Gratian's Decretals (about 1140).

### 2. Competence of the State

The State is entitled to regulate the purely civil legal consequences of the contract of marriage (right of name and state, marital rights to property, right of inheri-



tance), and to settle disputes about these matters. CIC [1917] 1016: "preserving the competence of the civil power regarding the merely civil effects of such a marriage" (*salva competentia civilis potestatis circa mere civiles eiusdem matrimonii effectus*). Cf. CIC [1983] 1059.

To the extent that the State's legislation and administration of justice invades the jurisdiction of the Church, the Church cannot recognise their validity. Thus the Church rejects obligatory *civil marriage*. She regards such civil marriages not as real marriages, but merely as legal formalities.

