

INTENTION AND THE MARRIAGE BOND

A priest who has not solemnized marriages for many years (he is a schoolman) was hurriedly requested to solemnize the marriage of a couple who were decided to live together even without the benefit of the sacrament. To avoid scandal (both are teachers of a catholic school) the priest agreed to help them. Somehow all legal and canonical requirements were obtained in a few hours, so the priest married them.

Not being engaged in parochial duties, the priest did not have the latest marriage ritual. The parish priest misplaced his for the moment, so the priest used the Marriage Rite Within Mass as published in the BOLETIN ECLESIASTICO, July 1968 pp. 465-477 (1) thinking it was complete. He carefully marked the italicized portion to avoid confusion during the ceremonies. At the interrogation of the couple, the priest used only what belongs to the Scrutiny, first asking the bride and then the groom, believing this is all what is required by the new ritual. The other questions are not in that portion of the Boletin. Inadvertently therefore the Exchange of Mutual Consent was omitted.

¹ There seem to be a confusion here. The BOLETIN ECLESIASTICO published the official texts of the New Marriage Ritual within and without the Mass. The first one appeared in the May-June 1968 issue, pp. 359 ff., while the latter in the August 1968 issue, pp. 536 issue. And in both these texts there was no portion omitted either advertently or inadvertently. However in the July 1968 issue, pp. 465 ff. a *commentary* on the *New Marriage Rite of the Philippines*, written by Fr. H. Graef, SVD, appears. Obviously this was the one used unfortunately by the priest. Being a commentary, it does not have to include the complete text, as in fact, the aforementioned article does not.—ED.

After four days, the priest happened to visit a bookstore in another town and bought a copy of the latest Our Wedding Day booklet. Going through the book, he realized his mistake or omission.

Assuming that the couple really wanted to get married and answered the questions sincerely, was this marriage valid? It seems to me that the question in the Scrutiny and the questions in the Expression of Mutual Consent are essentially the same. Or is there a difference? In other words, are the question in the Scrutiny enough to elicit and to express mutual consent ad validitatem matrimonii?

If the marriage is invalid because of the omission, what is to be done, and how do you proceed? Absolutely nobody knows about the case.

This marriage is, in our opinion, null and void. One thing is the purpose of getting married and another thing is to carry out that purpose. The parties concerned indeed declared that they went to the church with the intention of getting married, but it is not said that they got married. There is a world of difference here.

The priest asked them whether they came freely in order to be joined in the love and service of husband and wife. Their answer was in the affirmative. May this declaration be regarded as in fact their real matrimonial consent? Certainly not. What they declared were the following:

- 1.—That they went freely to marry each other.
- 2.—That the purpose of their coming to Church was to marry each other.

In other words, they stated their freedom and intention of getting married. However, they did not actually express their matrimonial consent, though from the declaration made it can be drawn that both were ready to give it if required.

The purpose or intention of doing something is not its realization. We make many intentions that were never actually realized. In our case, the fact that they wanted to marry each other does not mean that they really got married. The matrimonial consent, efficient cause of marriage, presupposes the purpose or intention to get married, but this cannot be confused with the actual consent. Otherwise, the same purpose or intention to marry would join the contracting parties in marriage. During the premarital investigation the contracting parties made clear their intention to marry each other. It cannot be said that this declaration made during the investigation joined them in matrimony. It is their matrimonial consent expressed, when required, that should be the real creative element of the so called matrimonial bond between them. In other words, the marriage bond is created not when the contracting parties declare their intention to marry each other, but when they actually take each other as husband and wife through their matrimonial consent.

The scrutiny, now a part of the ceremonial of marriage is not the exchanging of matrimonial vows, but a preliminary to it. So the declaration made during the scrutiny as to their freely coming to marry each other does not create the marriage bond. Only their matrimonial consent, required and given, creates this bond.

● **Excelso Garcia, O.P.**