

# THEOLOGICAL TRENDS

## INTERCHURCH MARRIAGE I

AN AREA in which there has been considerable development since Vatican II in theological reflection and pastoral practice is that of mixed marriages. There was always a difference in law between the dispensation a catholic required to marry a baptized christian of another communion (misnamed *a mixta religione*, and needed only for the lawfulness of the marriage), and the dispensation he required to marry a non-christian (*a disparitate cultus*, and required for validity). But this was a technical difference, and both classes were mentally lumped together as 'non-catholics': a committed protestant could thus be classed with and treated the same as an agnostic. Since the Decree on Ecumenism, it has been increasingly recognized that catholics are in imperfect or partial communion with other christians in the Body of Christ,<sup>1</sup> and specially linked to them by the bond of baptism;<sup>2</sup> and this has progressively affected the handling of mixed marriages of catholics with other christians. A further influence has been the *Declaration on Religious Freedom*, a document referred to by the Pope in his apostolic letter, *Matrimonia Mixta*, of March 1970, which governs present practice.<sup>3</sup> At Vatican II, the church became more aware of the danger of her violating the rights of conscience of the non-catholic party in a mixed marriage. A statement such as the following, even if made primarily to assert the rights of the individual vis-a-vis the civil power, is broad and deep enough to include interchurch relations: "This [religious] freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that in matters religious no one is to be forced to act in a manner contrary to his own beliefs".<sup>4</sup>

In Britain it is often estimated that about 70 per cent of catholic marriages are mixed, and of these the vast majority, perhaps as many as 90 per cent, are between catholics who must have some measure of commitment (or they would not approach the priest at all) and those of no religion. From these facts two things follow. The first is a very deep and justifiable concern on the part of bishops and priests that catholic faith and life should be perpetuated and strengthened in the catholic party, and should be imparted to the children. But it also often results that the true 'interchurch' marriage, namely one be-

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<sup>1</sup> *Unitatis Redintegratio*, 3.

<sup>2</sup> *Ibid.*, 22.

<sup>3</sup> The english text of *Matrimonia Mixta* is published, together with the official Directory of the English and Welsh Bishops, by The Catholic Truth Society as *Directory Concerning Mixed Marriages* (Do 431, 6p).

<sup>4</sup> *Declaration on Religious Freedom (Dignitatis Humanae)*, 2.

tween a committed catholic and a committed christian of another communion, is overlooked and is classed with, and handled like, a 'merely mixed' marriage. It is with interchurch marriages that this and a subsequent article are chiefly concerned, in the belief that they need and deserve special and careful attention. Firstly, because of the truly conscientious and christian conviction of the non-catholic. Secondly because of the particular pastoral needs of both. Thirdly because, though such marriages may be comparatively few in number, they are qualitatively of great importance in the ecumenical scene. The way they are handled or pastorally cared for can have considerable effects, for good or for ill, on the relations between the churches themselves. In the more local scene, the interchurch couple, who are learning to live a united christian life, can be a considerable ecumenical force and focus: they are bound to each other by the sacramental bond of marriage over and above that of baptism; they have a more deep christian commitment to each other than their churches have; they are more fully in communion with each other than their churches; they have a personal experience of christian unity which they can communicate to others, and they can even be seen as an eschatological sign of the unity we seek.<sup>5</sup> Finally, they can have an influence on the 'merely mixed' marriages that are all around them: the simplest solution to religious differences in a marriage is not to have any religion at all, and it is a solution eventually followed by a large number of mixed marriages; the interchurch couple can give a positive lead to others. (At the centre of interchurch marriages is the increasing number of anglican priests with catholic wives. The writer knows personally ten such couples in England, and one in Dublin; and there are no doubt many more.)

In this article, then, with the interchurch marriage mainly in view, I propose to consider questions concerned with getting married. In the next article I will treat of the marriage ceremony itself, and of some of the matters that arise in living such a marriage.

#### *Dispensation to marry*

*Mixta religio*, or the fact that the intended partner of the catholic is a baptized non-catholic, is an impediment to marriage arising from positive church law. The fact that it is an impediment involves the catholic in securing a dispensation before the marriage can go ahead.<sup>6</sup> The fact that it arises from positive law means that the church could, if it wished, abolish the impediment and hence the need for a dispensation.

The arguments for retaining the impediment are as follows. The church

<sup>5</sup> Cf *Matrimonia Mixta*, para. b. In their Directory the french bishops express their joy that some mixed marriages 'through often painful tensions, light up and help forward the ecumenical journey of the churches themselves'. See *One In Christ*, VII (1971), p 222. Similarly the belgian bishops (*ibid.*, p 223): 'In the little church of their family they can also be a prefiguration of the christian unity which is yet to come'.

<sup>6</sup> In Germany and Switzerland parish priests can themselves grant the dispensation without applying to the bishop: Cf *One In Christ*, VII (1971), p 220.

naturally wishes catholics to marry catholics, both because of the need of unity at this central point of life, and to ensure that the home life of the faithful will nourish their catholic faith and that of their children. Even forty years ago some bishops made difficulties about granting this dispensation, in order to discourage mixed marriages as far as possible. Canon Law (1060) even said that 'the church most severely prohibits' such marriages; but the canons on this matter have been replaced by the Pope's Letter, *Matrimonia Mixta*, which speaks more leniently and understandingly, and requires only a 'just' reason, in place of the 'grave' reason of the Code, for the granting of a dispensation. In practice in Britain, the dispensation is given for the asking, once the relevant promises have been made. It might be argued that a law which is always dispensed from should be abolished, as it becomes meaningless and brings law in general into disrepute. But the reality of the matter lies, not in the impediment and dispensation, but in the annexed promises which are the condition of the latter's being granted. And the argument for keeping these is that they enable priests to face possibly euphoric couples with their profound christian obligations, and to help them to give serious consideration, in good time, to the problems that are inherent in any mixed marriage. They are also an occasion of bringing out into the open, for the sake of both partners, the catholic conviction that the catholic church is the fullest visible and sacramental expression in history of all that Christ wished his Church to be. (As is well known, the Council avoided the expression 'the true Church', and spoke of the Church of Christ 'subsisting' in the roman catholic church.) In view of the facts and figures about mixed marriages, already outlined, this is obviously a very serious consideration indeed, not only for the particular couple, but for the catholic church in this country.

There are, however, arguments against retaining the impediment and the attached promises. (The latter would have to go, if the former were removed, for otherwise the requirement of formal promises would itself act as an impediment: indeed, in practice, it is they that now constitute the actual support for catholic teaching and the hurdle to be cleared.) The chief argument is that the impediment causes considerable offence to other churches: a catholic needs a dispensation to marry 'one of them'. It is this kind of barrier that is seen (rightly or wrongly) as evidence of lack of full sincerity on the part of the catholic church in the ecumenical movement. Its removal would do a lot to improve relations with other churches; it would be seen as concrete evidence that the catholic church really accepts the baptism of other churches, really recognizes the genuineness of their christian life, and is serious about brotherly relationships with them and desire for unity. Hence the catholic church is faced with a choice between what seems good for the care of her own faithful, and what is increasingly demanded by the growing union of the churches and the progressive relationships that this involves. It would still be possible and desirable for priests to instruct catholics and their proposed partners carefully about catholic conviction and the challenges of a mixed marriage, if there were no impediment and no promises. Other churches find

the catholic church too prone to hedge impediment with law, and think that this keeps the faithful in a state of religious immaturity. And they (and catholics too) find it distasteful to involve the sacred and personal occasion of marriage with more legal requirements than are already necessary. The contrary opinion would be that a certain measure of discipline is healthy as a way of proclaiming one's faith and insisting on the importance of certain obligations.

Some have argued that people have a natural right to marry whom they wish, and so question the right of the catholic church to introduce this impediment. The answer from the catholic side is that the church does not (and of course cannot) prevent catholics from marrying non-catholics in the 'natural sense' of contracting a civil marriage. But it regards all christians as raised by baptism to the visible order of grace, so that a further dimension is given by God's grace to their pledges of marriage, as to their whole lives. They *are* christians (whose marriage has a meaning in and for their christian community) and cannot cease to be so for the purpose of marriage; so in the eyes of the church their marriage is either a marriage within the christian community, and an essential part of that community's life and self-perpetuation, or it is no marriage at all. Hence it is the christian community's need and right to determine what shall be regarded as a christian marriage. The impediment in question is an expression of the conviction that the catholic church is the Church as Christ intended it to be, and is therefore an expression of her ecclesiology: that is, of her self-awareness as a christian community.

*The promise about the children*

The relevant passages of *Matrimonia Mixta* are the following three paragraphs of the letter's introductory statement, and the two norms that depend on them:

- para g) The faithful must therefore be taught that, although the Church somewhat relaxes ecclesiastical discipline in particular cases, she can never remove the obligation of the catholic party, which, by divine law, namely by the plan of salvation instituted through Christ, is imposed according to the various situations.
- h) The faithful should therefore be reminded that the catholic party to a marriage has the duty of preserving his or her own faith; nor is it ever permitted to expose oneself to a proximate danger of losing it.
- i) Furthermore, the catholic partner in a mixed marriage is obliged not only to remain steadfast in the faith, but also, as far as possible, to see to it that the children be baptized and brought up in that same faith and receive all those aids to external salvation which the catholic church provides for her sons and daughters.
- Norm 4) To obtain from the local ordinary dispensation from an impediment, the catholic party shall declare that he is ready to remove dangers of falling away from the faith. He is also gravely bound to

make a sincere promise to do all in his power to have all the children baptized and brought up in the catholic church.

- Norm 5) At an opportune time the non-catholic party must be informed of these promises which the catholic party has to make, so that it is clear that he is cognisant of the promise and obligation on the part of the catholic.

The chief innovation is that the non-catholic party is no longer required to make any promise at all: he is simply to be informed of the catholic's promises, so as to be fully aware of the latter's position. The Letter does not require any reaction from him. This new ruling is an implementation of the wishes expressed by the majority at the bishops' Synod in 1967.

The catholic's promise to preserve his own faith has been found acceptable to all, and has caused no difficulties. It is the promise about the children that needs careful discussion.

The letter uses the phrase 'divine law' to distinguish what according to catholic conviction the Church is unable to change from matters of positive human law that are within her discretion. It does not, of course, mean that there is some actual law in propositional form revealed by God that a catholic must in all circumstances bring up his children as catholics. *Matrimonia Mixta* explains the meaning in the next phrase, 'namely the plan of salvation instituted through Christ'. In catholic conviction, the Church divinely instituted by God the Father through Christ subsists in the catholic church. Hence the phrase is a restatement of this catholic ecclesiological conviction, and does not introduce any further factor. It follows from the catholic conviction that a catholic believes he has an obligation to bring up his children in the catholic faith.

It does not follow from catholic conviction, and is not of divine law, that, before a mixed marriage, a catholic should have to make a formal statement of his conviction in the form of a promise. This is a matter of positive ecclesiastical law which the church could abolish, or can dispense from; whereas it cannot abolish or dispense from an obligation in conscience arising from catholic faith. Hence in requiring the promise about the children, the church is not imposing any additional obligation in conscience on the catholic, any more than in the case of the first promise about keeping the faith: it is simply requiring him to state in the form of a promise the obligation he already has.

A non-catholic cannot be expected to accept that the catholic church is 'of divine law', or divine institution, in a way that overrides the claim of his own church to divine institution;<sup>7</sup> and he may very well have a firm contrary

<sup>7</sup> 'The anglican would acknowledge a divine law for christians to offer a christian upbringing to their children, but would question whether any narrower definition than this could be said to have "divine" sanction'. (Third Report of the anglican/roman catholic Commission on Marriage, n. 12; cf *One In Christ*, IX (1973), p 202.) This statement accepts in principle the phrase 'of divine law' for an obligation arising direct from christian conviction, but cannot accept its particular application by *Matrimonia Mixta*.

conviction that it is according to the will of Christ that his children be brought up in his own church. It has often not seriously occurred to, or been faced by, catholics that other christians may have equally deep counter-convictions of their own. The change in catholic 'norms' for mixed marriages is a recognition of the rights of conscience of the other party. The Declaration on Religious Freedom shows a consistency in terminology when it says: 'On his part man perceives and acknowledges the imperatives of the divine law through the mediation of his conscience'.<sup>8</sup> The conscience of the non-catholic is the vehicle of divine law to him. The same Declaration later states: 'Since the family is a society in its own original right, it has the right freely to live its own domestic life under the guidance of parents. Parents, moreover, have the right to determine, in accordance with their own religious beliefs, the kind of religious education that their children are to receive'.<sup>9</sup> As the rest of the paragraph shows, these statements are made in the context of the parents' rights over against the civil power, but they obviously have their application to parents who acknowledge the authority of different churches and different theological traditions. They are reflected in the assertion of *Matrimonia Mixta*: 'The problem of the children's education is a particularly difficult one, in view of the fact that both husband and wife are bound by that responsibility and may by no means ignore it or any of the obligations connected with it'.<sup>10</sup>

The fact that the catholic is required to state or acknowledge his conviction in the form of a promise, as we have seen, does not in any way add to the obligation in conscience he already has: it merely states it. Stating it does not put any undue pressure on the conscience of the other party: it merely clarifies the existing position to him. Thus it in no way pre-empt's the decision that will have to be made about the children.

It proves in practice extremely difficult for either catholics or their non-catholic partners to grasp these facts. Reasonably or unreasonably, both parties may feel a resentment about the promise which it is difficult to banish. They continue to regard it as an extreme form of pressure on the conscience of the non-catholic. One even hears such phrases as 'signing away the children', and of course the promise does nothing of the kind.

Hence it needs to be clearly restated, because it is not always understood on either side, that the catholic does not promise that the children will in fact be baptized and brought up as catholics: such a promise would indeed exert undue pressure on the conscience of the other. He promises to do what he can to bring this about. And that is what his catholic conviction already means, for it cannot be a sincere conviction unless he intends to do what he can about it. What he can in fact do about it depends, not simply on the other, but on the way the relationship between the two partners develops.

The anglican/roman-catholic commission on marriage rightly states: 'A pastoral purpose may require expression in juridical language and process: to legislators and administrators of the law this pastoral end should always be

<sup>8</sup> *Dignitatis Humanae*, 3.

<sup>9</sup> *Ibid.*, 5.

<sup>10</sup> *Loc. cit.*, para j.

seen to be primary'.<sup>11</sup> It seems necessary in the matter of this promise to distinguish pastoral from legal concerns. In order to secure the dispensation to marry, the legal requirement is simply that the catholic should make the promises, and the other party be informed. No reaction is required from the latter, and his attitude to the children's religious upbringing does not need to be known. But, of course, pastorally it is quite inadequate for the priest concerned simply to 'polish off' legal formalities without helping the couple to face together, and to understand as fully as they can in advance, both the special challenges and the special opportunities which an interchurch marriage presents.<sup>12</sup> In the course of such necessary discussion the priest can hardly fail to discover the non-catholic's attitude to some extent. He may find that he has little or no christian conviction, and so feel pretty sure that the children are to be brought up as catholics. But he should not rejoice at the non-catholic's lack of conviction on the ground that it presents 'no difficulties': the catholic will get little or no help and support from marriage either for personal faith or for the children's upbringing; it will not be a truly christian family, with both parents taking a part in its religious life. The priest should not exclude the hope that being married to a good catholic may make a poor anglican (say) into a good anglican; absence of christian commitment is by no means a guarantee against religious squabbles, and it removes a main barrier to marital breakdown. The priest may, on the other hand, find that the non-catholic cannot entertain the idea of his children being catholics; or he may find that the non-catholic is by far the more committed to his church of the two. Should he, in either of these situations, regard the conviction of the non-catholic as a reason for not recommending the dispensation, even though it is not a legal requirement for the dispensation that the non-catholic's attitude should even be known? And should the bishop regard the attitude of the non-catholic as a reason for refusing the dispensation?

Before any answer to these questions is considered, one further matter of importance needs to be taken into account. It is not legally required for the granting of the dispensation that the couple should first reach a decision about the christian upbringing of their children. Is it pastorally wise to bring them at this point to such a decision? Many priests seem to try to do this, and they may even think it (pastorally) necessary to do so. Nowhere does *Matrimonia Mixta* say so. They may even still think that a dispensation can only be granted if the non-catholic is somehow 'talked round', and there is a

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<sup>11</sup> Third Report, no. 4, *ibid.*, p 199.

<sup>12</sup> Difficulty has been found over the meaning of the english and welsh bishops' statement in their *Directory* (comment on Norm 7): In the situation in which the 'non-catholic is determined to prevail upon the catholic to abandon the faith, or is determined that some at least of the children shall be baptized and brought up outside the catholic Church . . . it is not enough for the bishop to know that the catholic' has made the promises. It is enough to satisfy the legal requirements for the dispensation, but is not enough as pastoral concern for the couple.

moral certainty that the children will be brought up as catholics. There is no suggestion of this in *Matrimonia Mixta*. The question of such moral certainty came into the arrangements prevailing between the papal Instruction of March 1966 and the Apostolic Letter of 1970: with such certainty the bishop could grant the dispensation, without it he had to apply to Rome. But it is part of the advance made by *Matrimonia Mixta* that it does not require such moral certainty for the bishop to grant the dispensation: he may now do what Rome repeatedly did in the intervening years, namely grant the dispensation, as long as the catholic had made the promises, even when it is morally certain that the children will be brought up as non-catholics. So, it is not for *this* reason necessary that the couple should reach a decision about the children before they are married, or before they are given a dispensation to marry. The directories of the swiss, belgian, french and canadian hierarchies show that they expect the decision to be one that will emerge in the course of the marriage.<sup>13</sup> So does the second report of the anglican/roman-catholic commission on marriage: "We acknowledge that as the spouses after their marriage "experience the meaning of their oneness and attain to it with growing perfection day by day" (*Gaudium et Spes*) they must be encouraged to come to a common mind in deciding factors relative to their conjugal and family life'.<sup>14</sup> There are strong arguments for this. At the pre-marital stage the couple have only begun to know each other and to learn about the other's church and religious convictions. They should be encouraged through joint prayer and worship, not only to deepen their understanding of each other's christianity and their experience of a basically common faith, but to strive to reach a joint decision about the children which is truly acceptable to both and can therefore be carried out in full partnership. A hoped-for convergence of this kind takes time. Marriage is a uniting bond, a sacrament of union: the experience of marriage itself must be allowed to contribute to the formation of a joint decision.

Hence, to return to the question laid aside, it would seem to follow that the pastoral desirability of granting a dispensation cannot be decided simply on what appear to be the attitudes of the partners at the pre-marital stage. Both may need to change. The catholic may be weak in commitment and may be made a better catholic by a committed christian partner; or he may be over-rigid and exclusive, perhaps from upbringing and social pressures, and need to learn respect for other christians through marriage. If the non-catholic is hostile to catholicism, the reverse is true: the lived faith of the catholic partner must be trusted to show its worth and to bring the other partner progressively to respect it. One cannot exclude the possibility of cases (surely a very exceptional minority) in which the attitudes of the couple seem so implacably irreconcilable (and it is a question of the couple, and not simply of the non-catholic), that the pastor becomes quite convinced that

<sup>13</sup> See *One In Christ*, VII (1971), pp 230-233; VIII (1972), p 425.

<sup>14</sup> Quoted in the Commission's third report, *One In Christ*, IX (1973), p 201.



the marriage would not work: this would then be the pastoral reason for withholding the dispensation and persuading them, if possible, to give up their intention of marrying.

Some episcopal directories explicitly recognize that the couple may eventually and responsibly decide to bring up the children as members of a non-catholic communion: in doing so they respect both the conscience of the non-catholic, and the fact that responsibility for the decision truly rests with the couple, cannot be made for them, and needs for the sake of the marriage (and so of the children) to be a joint decision which both can approve and implement. The directory of the german bishops explains in some detail that, in that case, the catholic is still bound to play an active part in the christian upbringing of the children, and to lead them to a knowledge and understanding of catholicism. The second article on this subject of inter-church marriage will consider more fully the question to what extent the decision to bring up the children in one church is exclusive or inclusive of bringing them up in the other.

The catholic promises to do what he can to ensure the catholic baptism and upbringing of the children. *Matrimonia Mixta* uses two different phrases in this connection. In the introductory section (para 1, above) it says: 'The catholic partner is obliged, as far as possible, to see to it that . . .'<sup>15</sup> In Norm 4 it says: ' . . . promise to do all in his power . . .'<sup>16</sup> The directory of the english and welsh bishops incorporates the second and stronger phrase in the form of promise it lays down (commentary on Norm 7). This stronger phrase causes difficulties, sometimes to both parties. It could be understood as a promise to exert pressure by any available means, but is obviously not meant in this sense: one could fairly gloss it by the earlier and gentler phrase. Nevertheless, it contributes to the pervasive impression that the whole demand for a promise on the catholic side exerts undue moral pressure on the non-catholic, and introduces an unnecessary dividing factor between the couple. Hence it needs explanation. The anglican/roman-catholic commission on marriage reports: 'This english phrase might be and often is adduced to justify the roman catholic party acting in a way which disregards the equal rights in conscience of the non-roman catholic party, and even to justify the roman catholic adopting an attitude or pursuing his purpose in ways which might endanger the marriage. It is recognized that responsible roman catholic commentators on the letter (including many episcopal conferences) do not put this interpretation on the latin phrase, but rather confirm our Windsor statement quoted above – viz. 'The duty to educate children in the roman catholic faith is circumscribed by other duties such as that of preserving the unity of the family'.<sup>17</sup> The directory of the swiss bishops explains as follows: 'The religious education of the children is a duty shared by both partners.

<sup>15</sup> *Pars catholica obligatione tenetur . . . quantum fieri potest, curandi ut . . .*

<sup>16</sup> *Pars catholica . . . promissionem . . . se omnia pro viribus facturam esse ut . . .*

<sup>17</sup> *One In Christ*, IX (1973), p 200.

That is why the catholic partner alone cannot commit himself to baptize and educate his children effectively in the catholic faith. He must, however, desire to work for the catholic baptism and education of his children so far as that is possible in the concrete circumstances of his marriage. To do what is possible in the concrete circumstances means: in sincere dialogue and in respect for the reasons and religious convictions of the partner, to make a decision which both can approve'. Similarly the canadian bishops: 'To do one's utmost in the particular circumstances of this marriage means that the parties should arrive at a decision agreeable to both, after sincere discussions which take place with due respect for the religious conviction of the partner'.<sup>18</sup>

Finally, there is no doubt that having to *sign* a promise causes a further difficulty, sometimes to both parties. The friendly and pastoral discussion of priest and couple becomes awkward and embarrassing at this point. It is no good simply making the rational or cerebral point that a promise is exactly the same whether verbal or written. Some feel, 'My word is apparently not good enough'; or, 'they want to have something to hold against me'. Some feel that a dictated form of words is somehow threatening; it is not a personal expression of a state of conscience. Most perhaps feel that it adds a further dimension of pressure from outside on two people whose chief concern is to love one another. Administrative needs require 'a form' to go to the chancery to secure the dispensation (when the priest cannot give it himself), but there do seem to be very strong reasons for introducing everywhere the practice that prevails in many regions of the priest himself filling in that the catholic has made a satisfactory promise. Logically or illogically, it would be much easier for all concerned; it would show a move away from legal requirements in the direction of pastoral concern; and it would be much appreciated by other churches.

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<sup>18</sup> *One In Christ*, VIII (1972), p 425.