WHEN IS MARRIAGE A SACRAMENT?

During the last few years a good deal of discussion has taken place among Catholic theologians concerning the conditions which make a marriage between two baptized Christians indissoluble. As yet there has been no serious consideration of a particular case which occurs often enough and which is resolved on the principle that the matrimonial contract coincides with the sacrament. The case referred to is that of two baptized Christians who are unaware of the sacramental nature of marriage and contract a civil marriage. What justifies calling this marriage sacramental and therefore indissoluble, granting that it has been psychologically and physically consummated? Is the application of the "consensus theory" a satisfactory solution?

It is the purpose of this paper to offer a theology of the sacraments in outline form and to apply it to marriage with particular emphasis on the marginal case just mentioned.

THEOLOGY OF THE SACRAMENTS

General Description of Sacraments

Among the various activities of the Church, those called sacraments take place in the context of Christian worship. Indeed, sacraments cannot be conceived of outside Christian worship. This raises difficulties in the case of the marriage of baptized Christians who are unaware of the sacramental nature of marriage. In what sense is this marriage agreement, viewed by the participants as a merely human institution, an act of worship? One can speak of a certain degree of presence of the Church being given through the presence of two baptized persons. This is the traditional argument for the coincidence of the marriage agreement and the sacrament in this case. But is this presence of the Church sufficient for one to speak of the presence of the faith of the Church determining this human situation to be a sacramental event and consequently an act of worship?¹ This question can only be treated in the light of a more comprehensive sacramental theology and will be dealt with in the concluding section of this study. For the time being, we can confidently assert that sacraments, being basic activities of the Church, must take place in the context of the worshiping Church. All the basic activities of the Church, including loving service, have a cultic dimension (Rom 12:1).

¹ In general, the mere presence of members of the Church in a human situation which is patient of a sacramental celebration is insufficient to raise that situation to a sacrament. Thus, the sharing of bread and wine between Christians can only become Eucharist when it is celebrated as such.

Looking at the particular sacraments found in the sevenfold enumeration of traditional Catholic theology, we discover that the Eucharist provides the unique example of a sacrament in which the communal dimension is placed in the foreground and encloses an individual dimension of "eating" and "drinking." The other six sacraments are administered directly to the individual as such. While all the sacraments proclaim that God is present in a particular human situation, in the Eucharist the community situation is singled out: the Eucharist being given in the form of a human meal in which there is a sharing of food and drink together in communion with the risen Lord. In the case of the other sacraments, God's presence is proclaimed as active in certain basic situations of the individual's life as such.

Another characteristic of all the sacraments, deriving from the fact that they involve a proclamation of God's saving presence, is the dimension of faith. The sacramental celebration is an invitation to respond in faith to the proclamation and thus enter into interpersonal communion with the community and with God the Father through Christ in the power of the Spirit. Being celebrated by the Church, the sacraments mediate an encounter with the community of faith which lives in Christ through the Spirit in communion with the Father. Because of the nature of the community, they mediate an encounter with the Spirit, Christ, and the Father.

Finally, we should note that what the Church calls sacraments always have a verbal dimension. However, in two cases there is only a word structure: marriage and penance.² In the other five cases, both word and symbolical gesture are linked together.

Function of Word and Symbolical Gesture

The foregoing description of the sacraments of the Church leads us to ask: What is the function of word in the sacramental celebration where no symbolical action is present, as in the case of marriage and penance? Here we must turn to an analysis of the general function of language. Sometimes language has a merely descriptive function, while at other times a transforming function is included. In the latter case language serves to contribute to the way a man sits in the world. These basic functions are displayed in the language of the Church. The Church uses language merely to describe in the case of catechetical information. At other times language has an ontological function. The ecclesial word of God falls into this latter class. The strict word of God preached in the

² K. Rahner, "Was ist ein Sakrament?" Stimmen der Zeit 188 (1971) 18, points out how the attempts to establish the traditional materia-forma structure in these two cases amounts to mere quibbling.

Church has a descriptive function, for God is attained through concepts. But this proclamation has a transforming function. It serves as the occasion for God to create the response of faith.³

The ecclesial word of God is sacramental, but it becomes a "sacrament" in the traditional sense of the term when the Church's proclamation is particularized in such a way that it is addressed to a crisis situation of human life and announces God's saving presence and, at least implicitly, its demands. Of course, to be word of God, the Spirit's activity must be present illuminating the situation for the hearer and evoking a response. This presence of the Spirit is presumed to be there where a sacrament is properly administered. It must also be said that this holds for preaching where the word of God is correctly announced. The theological basis for this presumption is the recognition of God's decision to bind Himself irrevocably to the proclamation of the gospel of Jesus Christ.

Consequently, the function of word in a sacramental situation which is without a symbolical gesture is to proclaim and interpret a crisis situation. The crisis situation, which itself symbolizes for man the ambiguity of human existence and the uncertainty of his choice concerning the direction of his life, is proclaimed by the word to be place of God's saving presence calling for a proper response. Briefly, through the word these primordial situations of crisis become situations of salvation: time of the graceful advent of God. The natural symbol inherent in the crisis situation becomes symbol of the place of God's saving presence through the word of God.⁴

What is the function of the symbolical gesture in the case of the remaining five sacraments? Here we can proceed along the same lines as the previous consideration. The function of symbolical action can be descriptive alone or involve a transformation. The symbolical activity of the Church is, at times, merely descriptive, but there are occasions when it has an ontological function. The sacramental symbolical actions belong to the latter class. They have the descriptive function of representing appropriately the presence and action of God in particular crisis situations of human life. At the same time they transform man through the symbolical proclamation in which God creates the response of faith. Here the role of the Spirit comes into play to illuminate the

^aC. E. Winquist, "The Sacrament of the Word of God," *Encounter* 33 (1972) 217-29: a good, brief explanation of the descriptive and nondescriptive or ontological function of language is included.

⁴W. Kasper, "Wort und Sakrament," in *Martyria*, *Leiturgia*, *Diakonia*, ed. O. Semmelroth (Mainz, 1968) pp. 274-77: a good treatment of the anthropological foundation of a comprehensive sacramental theology.

symbolical action for the participant and so evoke the response of faith.

The word of proclamation, linked to the symbolical action, relates this action to a primordial situation and declares that situation to be one in which God's saving presence is active and demanding response. So both word and symbolical action proclaim the presence of God in a particular human situation. The relative efficacy of the two modes of proclamation will differ depending on the subjective condition of the participant. However, in all cases, it is a word, heard or understood, which gives to the symbolical gesture its determination. Ultimately, just as in all human intercourse, the word determines situation and the significance of a particular symbolical action.⁵

From this analysis we can draw the conclusion that a theology of the sacraments should be seen within the perspective of a theology of the word. The sacraments represent the highest degree of the graceful word of God in the Church, because they are directed to important concrete existential situations of the community (Eucharist) or the individual (remaining sacraments).

The sevenfold enumeration of the sacraments should be explained on the basis that the Church recognized in these and not other "words" of the Church that absolute engagement which is necessary for such radically exhibitive words of God. Moreover, it would seem that the Church's recognition of this should be explained on the basis that these sacraments represent basic situations of human life, within the context of the Church's life, which ought to be proclaimed as place of God's saving presence according to the gospel of Jesus Christ.

Relation of Church and Christ to Sacraments

So far we have not mentioned the Church in particular. This should be done, since word and sacrament are activities of the Church. The question of the nature of the Church, therefore, must be raised. What makes it possible for the activity of the Church to have this radically exhibitive function with respect to the word of God under its various forms?

According to her nature, the Church is only understandable in a twofold reaching beyond self: to Christ and the world. The Church comes into being from Christ and thence reaches out to the world. In the task of reaching out to the world, as sacrament of salvation for the world, the Church through its faith in the victorious grace of God announces and presents that grace to the world as eschatologically victorious. Thus the

⁵ Ibid.

Rahner, art. cit., p. 22.

⁷ Ibid., p. 24.

Church is the historical sign by which God expresses His will to sanctify man and unite men and thereby realizes this goal. Through the exhibitive character of the Church, God's will to save is manifested in history and so makes itself historically irreversible. This exhibitive character of the Church is realized in preaching, sacraments, and loving service to the world.⁸

From this consideration of the function of word and sacrament it is evident that they are ways by which the Church comes into being and grows. But this means that the Church is under word and sacrament, while at the same time being minister of word and sacrament. Therefore both word and sacrament have to be referred to Jesus Christ. Since He is the basis of all the activity of the Church, the explanation of the *presence* of word and sacrament in the Church must be founded on Jesus Christ. The concern for this lies at the basis of theologians' past efforts to find a word of the historical Jesus which relates to each of the seven sacraments.

The task of discovering the basis for the seven sacraments of the Church in a historical word of Jesus is difficult, if not impossible. However, we can find in the person and activity of Jesus the basis for sacraments in the Church.

Concerning Jesus Christ we can say that He is the final revelation of God for men in history. This means that in His person, actions, and words He reveals in the fullest way God's will to engage man in personal communion and the conditions of this personal communion. Jesus' self-understanding of His relation to God as beloved son and messenger of the love of God for man and His intention to be obedient to the will of God find their opening to the world in His deeds and words. Thus God's presence is revealed to man in the man Jesus. The circumstances of God's communication is the human situation: Jesus' obedient life is the place of God's presence and sign of God's presence for man.

After the death of Jesus, the word of the cross (1 Cor 1:18; Gal 3:1) remains a sign which provokes man to decision, to the obedience of faith, when it is proclaimed by the apostolic preacher. It is most clearly present when the preacher attests also by his obedient service, since here the Lordship of God is revealed in the realm of obedience of faith in action. So in the time of the Church the human situation remains the place of the presence of God: the place where God's Lordship is attested and symbolically demonstrated.

This consideration provides the Christological basis for sacraments.

⁸ Ibid., pp. 20-22.

⁶ Kasper, art. cit., pp. 270-73: treatment of the Chrisotological basis of a comprehensive sacramental theology.

Since Christ has entered the human situation, He qualifies it anew as place of the presence and action of God. It becomes so for men where the human situation is proclaimed as such: where it is inserted into the history of salvation inaugurated with Jesus Christ. In faith in Jesus Christ primordial situations become for men time of grace and decision.

In brief, then, we can say that, viewed anthropologically, the word determines situation. Seen from a Christological standpoint, the word of God brings to expression the situation drawn out by Jesus Christ and made final by His resurrection, when it announces the Lordship of God and calls for decision. The relation to situation inherent in the word is manifested clearly in the sacrament. Here a human primordial situation is singled out and made through the word (and symbolical gesture where it exists) time of God's presence and saving action.

Conclusions

While a theology of the sacraments should be seen within the perspective of a theology of the word, it should begin with Jesus Christ, who reveals that God's presence is found in those primordial situations which symbolize the ambiguity of human existence. The word of God then proclaims these situations as place of God's presence and time of decision for God. Both word and symbolical gesture in a sacramental celebration exhibit the presence of God's self-communication and so make the communication, by the will of God Himself, historically irreversible.

The announcement of the word of God by the Church in particular human and social primordial situations is justifiable on the basis of the revelation of Jesus Christ that God's presence is to be found in such situations. But this does not necessarily imply that such a word will be or ever was extended by the Church beyond the contexts in which the Church now consciously proclaims such "sacramental" words. However, the question of the seven sacraments, "neither more nor less" (Trent), has not yet received a thorough and satisfactory treatment.¹⁰

Finally, in connection with the foregoing, the problem of the necessity of the sacraments should be raised. Concerning this two basic questions can be asked. (1) In what sense are the sacraments necessary for salvation? An answer to this question can be given very briefly: they are necessary in the measure that one recognizes in faith God's will for him to participate in the sacraments of the Church.¹¹ (2) In what sense are the

¹⁰ Rahner, art. cit., p. 24.

¹¹ The development of theological reflection on the necessity of the sacraments parallels the development of thought concerning the necessity of the Church. In the measure that the phrase Extra ecclesiam nulla salus was interpreted in the sense of necessitas medii, so also

sacraments necessary for the full development of the life of faith?

In the medieval period theologians developed arguments to explain why God instituted the sacraments. One argument involved the logic of the Incarnation: since the sacraments are an extension of Christ in history, it is fitting that they should involve both word and symbolical gesture which parallel the Incarnation of the Word. Another argument is concerned with the fact that salvation is for the whole man, body and soul; hence it is fitting that both encounter salvation by means which are appropriate: word and sign. St. Thomas, however, singled out the importance of word being present with the symbolical gesture in order to remove all ambiguity from the sign. Thus he makes of the sacrament a proclamation of salvation comparable to the most concentrated form of preaching. This highlights the absolute necessity of the word and the relative necessity of the symbolical gesture. Hence it brings out the relationship between faith and sacrament.

The necessity of the sacraments must be seen in the context of faith. O. H. Pesch argues that the necessity of the sacraments should be viewed in the context of the essence of the word of God and answering faith. Essentially, word of God and faith are something that happens in concrete situations which involve interpersonal encounter. Here the word of God meets man, touches him, and is answered or not answered. In this perspective, sacraments are needed to draw out the situation which depends on the proclamation of the word and the response of faith. This is so because preaching in generalities alone does not make this sufficiently clear.¹²

L. Scheffczyk believes that sacraments are "necessary," and here he speaks of a relative necessity, because they include in a special way the dimension of worship and so provide man with the possibility of completing the answer to the initiative of God in sharing the cultic

were the sacraments. In the measure that the phrase was interpreted in the sense of necessitas praecepti, as is done now, so that some can speak realistically of Extra ecclesiam salus, so also the sacraments are interpreted as necessary necessitas praecepti for those who come to the faith and recognize the place of the sacraments in the life of faith. With regard to the necessity-of-precept of the reception of the sacraments, O. H. Pesch, "Besinnung auf die Sakramente," Freiburger Zeitschrift für Philosophie und Theologie 18 (1971) 266-321. formulates these basic theses which seem to be incontrovertible and involve important pastoral consequences: (1) "Sacraments are commanded and correspondingly necessary in the measure that they share in the liberating power of the faith in the gospel, indeed underscore and support this liberating power" (p. 287). (2) "The necessity of the sacraments is an inner necessity of the faith, or it is on the whole no necessity. But if it is an inner necessity of the faith, then the sacraments are just as commanded as the faith and just as unenforceable as the faith" (p. 292).

¹² Pesch, *ibid.*, p. 315: he speaks of the necessity of the sacraments in the context of a discussion of the sacrament as interpretation of word and faith.

activity of the Church—praise of God being the final goal of God's activity in man.¹³

Ultimately Pesch sees the necessity of sacraments as consisting in the personal response they draw from the recipient because the word is directed to the individual. Scheffczyk, on the other hand, sees the necessity to lie in the response of faith which is integrated into the whole sacramental action and which is formally a social act of worship. Perhaps we should say this: the peculiarity and necessity of the sacraments consists in the fact that they are gestures of God in Christ directed towards particular life-situations and so are high points of the encounter of God with men. Because the encounter is particularized for the individual, the sacraments make possible a more adequate response of faith (and so of worship). Thus the peculiarity of the sacraments does not consist in the fact they they include an act of worship but that because of them a more intensive act of faith (and so of worship) is possible. Ultimately the sacraments reveal to man that God's presence is to be found in critical situations of human life which then can be accepted as situations in which man is able to grow in union with God and his fellow men through the free response to the demands which God places on man in the working out of the situation.

APPLICATION TO MARRIAGE

Having answered the question, what is a sacrament?, we have already given an answer to the question, when does a human primordial situation become a sacrament? However, in particular, a difficulty arises when we turn to the traditional Catholic theology of marriage. When does the human institution of marriage become a sacrament?

Traditionally, Catholic theology answers this question with a reference to the contractual dimension of marriage and the form of the marriage ceremony prescribed by the Church. The couple must be physically and psychologically capable of participating in what this human situation entails. They must be baptized and otherwise free from restrictions arising from their particular status in the Church, e.g., priesthood or solemn vows. They must follow out the prescriptions laid down by the Church for the form of the marriage contract, or be legitimately dispensed from this form. Finally, they must have the requisite intention to contract marriage. If these conditions are satisfied, the marriage is a sacrament and the Church recognizes it as such.

This teaching presupposes that the Church's legislation effects the authenticity of the marital status of Christians. In the case where the partners do not comply with the requirements of the form of marriage,

¹⁸ Von der Heilsmacht des Wortes (Munich, 1966) pp. 276-86.

not even the existence of the human reality of marriage is admitted. This is due to the fact that the Church views the marriage contract between Christians as coinciding with the sacrament. There is no room in the Church's teaching for a natural-bond marriage between two Christians, even when the partners do not recognize the sacramental nature of marriage. Such marriages are judged sacramental as long as the partners do not positively exclude the sacramental dimension and so invalidate the marriage contract itself.

This brief outline of the Church's position regarding the conditions of a sacramental marriage raises problems which can be put in the form of two questions. Why is it impossible for Christians to enter into a natural-bond marriage without receiving the sacrament? How does the dimension of faith enter into the marriage contract between two Christians who do not even implicitly recognize the sacramental nature of marriage? These questions can be phrased in another way: (1) Is the presence of the Church, the traditional argument for the coincidence of the marriage contract and sacrament, given automatically through the presence of two baptized Christians contracting marriage; or, (2) is the presence of the Church only given when it is concluded within the sphere where the faith of the Church is actually operative to relate this human institution to the graceful presence of God?

The theology of the Western Church, which binds the conclusion of the marriage contract between baptized partners with the reception of the sacrament, is based on historical development in which the Roman consensus theory prevailed. This theory places the essence of marriage in the contract, and when it is applied to Christian marriage makes the contract coincide with the sacrament. Furthermore, it left the way open to the conclusion, which was accepted, that the human institution cannot be separated from the sacrament where baptized are concerned. But this conclusion does not necessarily follow from the nature of the case except where the faith of the participants recognizes in the human situation, however vaguely, the place of God's special presence.

A concrete result of the view that the human situation is automatically a sacramental situation for baptized should cause serious reflection. In the practical application of this principle, something is allowed which is not permitted in the case of any other sacrament. Despite deficient dispositions, even obvious unwillingness, persons are allowed and even advised to submit to a wedding "in the Church." Is this correct practice? Is it allowable, in view of the nature of the sacraments, as expression of faith accepting God's offer of grace in particular crisis situations of human life, and the nature of Christian life in general, as life of faith flowing from the internal law of the Spirit, to fling a Church wedding at

an unwilling couple on the unique grounds of securing juridical validity? We might well ask: What benefit for a Christian marriage is attained through the securing of ecclesial-juridical validity in these circumstances? Is there a benefit which goes beyond what can be obtained from the civil recognition of marriage?

From a traditional Catholic theological point of view one might answer that since a Christian marriage contract is automatically a sacrament, there is the benefit of bringing to the attention of the participants that they are living in a sacramental state with its particular rights and duties. But just at this point the question should be asked: Is the consensus theory, which is calculated in its institutional application to expose the sacrament to misuse and unworthy reception, beyond criticism? Correct theory should be patient of correct practice.¹⁴

Marriage itself is a human institution which represents for the participants a crisis situation of life. This crisis situation itself is a symbol for the participants of the ambiguity of human existence and the uncertainty of the future results of a choice concerning the direction of one's life. The marriage contract represents a choice in this particular situation of crisis. If it follows the laws governing other sacraments, the crisis situation involved in marriage becomes a sacrament when, at least implicitly, it is determined for the participants by the word of God to be place of the special presence of God's saving action. Through the word of God, at least implicitly related to the human primordial situation, the situation itself becomes one of grace: a sacrament.

A long-standing tradition of the Eastern Churches holds that the minister of the sacrament is the priest. In principle, therefore, the human institution is separated from the sacrament. The human situation becomes sacrament in the sphere of the cultic activity of the Church. This traditional opinion makes the priest more than an "official witness" of the Church. This position makes it difficult for the Orthodox Churches to accept the sacramental character of Latin Church marriages. In their view the Latin priest does not have the proper intention to be minister of the sacrament of marriage, since he holds that the couple are the ministers of the sacrament. In practice the Orthodox Churches do not question the sacramentality of Latin Church marriages, but in theory they could. Furthermore, in the case where an Orthodox Christian marries a Latin Catholic before a Latin priest, there is a good deal of

¹⁴ Cf. Pesch, art. cit., p. 294. In considering the pastoral consequences of the relation of sacrament to faith, Pesch notes the difficulty of the unwilling couple. The practical application of the consensus theory of marriage prompts him to ask whether it would be possible to separate the contract (and so the validity of marriage) from the administration of the sacrament of marriage for the sake of the sacrament.

hesitation about recognizing the validity of the marriage, if not outright denial.¹⁵

The history of Christian marriage, both in the East and West, prevents us from accepting the doctrine of the Orthodox Churches in its rigid form. In many circumstances it would be unrealistic: no sacramental marriage without a priest assisting with the intention to be minister. But it does point out a principle which perhaps should be taken seriously by the Latin Church. The underlying principle of the Orthodox concern for the cultic dimension of marriage seems to be this: marriage is not automatically a sacrament but only becomes so in the measure of faith which leads the participants to accept this human institution as a graceful state.

A historical difficulty comes to mind concerning the application of this principle to the first eleven centuries of the Church. In this period marriage was experienced, at least in the West, as a secular reality. However, because of its moral and religious implications, it was considered to require special pastoral care. Does this allow us to speak of an implicit recognition of the graceful dimension of Christian marriage? In view of this historical problem and the traditional theology and practice of the Latin Church, but at the same time taking into account the demands of sacramental theology, we can close this discussion with a question concerning the viability of this thesis:

The celebration of the marriage consent as a crisis situation for which an authoritative word of the Church, based on the gospel, assures the special presence of God's graceful action, makes of the human situation a sacrament. Consequently the human situation, even in the case of baptized Christians, can be separated from the sacrament.

The presupposition of this thesis is the more general principle: all human situations become "sacramental," or, if you will, "charismatic," in the measure that they are grasped by the faith. Here we should listen to E. Käsemann's remark on the Pauline idea of charism:

15 The "Decree on Catholic-Orthodox Marriages" of the Sacred Congregation of the Oriental Churches, Feb. 22, 1967, provides that the canonical form of marriage obliges Catholics, contracting marriage with non-Catholic Oriental faithful, only for lawfulness: "For validity, the presence of a sacred minister suffices, as long as the other requirements of law are observed." This decree ignores the difficulty which Orthodox have regarding the intention of the Latin priest officiating. In view of this difficulty the Catholic-Orthodox Consultation (U.S.A.), of which this writer is a member, recommended to the National Bishops' Conference that marriages between Catholics and Orthodox take place before an Orthodox priest until the question of the minister's role in marriage is settled to the satisfaction of both sides (Statement issued May 19, 1970).

My previous condition of life becomes charisma only when I recognize that the Lord has given it to me and that I am to accept this gift as his calling and command to me. Now everything becomes for me charisma.... As nothing is charisma in itself, so nothing is secular.... All things stand within the charismatic possibility and are holy to the extent to which the holy ones of God make use of them.¹⁶

Just as natural gifts become "charismatic" for Paul in the measure that they are grasped in the faith, so it would seem does marriage.

Little light is shed on the sacramental status of the baptized couple in question by stressing that they are ordered to the sacramental state by their baptism. Ordination to a state of life is not, of itself, the same thing as participation in that state of life. Even less clarity is given by arguing that, just as in the case of the baptized infant, they receive the sacrament in the faith of the Church; for we are dealing with adults who have a personal history of relationship with God and who, existentially, have not been summoned to accept their marriage within their life of faith.¹⁷

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¹⁶ "Ministry and Community in the New Testament," in Essays on New Testament Themes (Naperville, Ill., 1964) p. 72.

¹⁷ In an article which escaped my attention until recently, Jean-Marie Aubert takes up the problem of the sacramentality of the marriage of baptized unbelievers: "Foi et sacrement dans le mariage," *Maison Dieu* 104 (1970) 116-43. In his solution the author introduces the concept of the priest as cominister who by his active presence provides the "form" of the sacrament, to which corresponds, as the "matter," the human reality of conjugal love of the partners (pp. 136-39). This perspective raises a number of questions. However, Aubert's basic conclusion, which coincides with the viewpoint of this present article, seems correct: the profound unity between the human reality and its sacramentality in the case of baptized partners is not realized in the absence of faith. While remaining ordered to a sacramental state by the baptismal character, their unbelief prevents the actualization of this state (p. 140).