

## FAITH, CONTRACT, AND SACRAMENT IN CHRISTIAN MARRIAGE: A THEOLOGICAL APPROACH

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**T**HE TITLE of this essay spans several theological questions which, though they appear theoretical, have practical pastoral consequences, and therefore demand reflection. I shall formulate them as theses to be explicated: (1) Christian faith is a person's comprehensive "yes" to God revealing himself as the person's savior in Christ. (2) Faith is necessary for salvation and for both the validity and fruitfulness of a sacrament, including the sacrament of Christian marriage. (3) Faith is necessary for right sacramental intention, again including the sacrament of Christian marriage. (4) Marital contract and marital sacrament are not separable in marriages between baptized believers; they are separable in marriages between baptized nonbelievers who can, therefore, enter into valid civil marriages. I shall consider each of these questions in turn and develop a theological approach to each of them.

Though these questions have troubled the Roman Catholic Church for the past two centuries, they have not as yet received genuine *theological* solutions. In the nineteenth century, political skirmishing between the Church and emerging European states cast both the questions and their solutions in terms which were political and juridical, but which have posed ever since as theological. In the early twentieth century, though their identity was far from theologically traditional, the 1917 Code of Canon Law decreed identity between marital contract and marital sacrament in *matrimonium inter baptizatos*. This juridical action put an abrupt end to the theological discussion which was, and continues to be, needed to generate theological solutions to theological questions.

This essay is in dialogue with two previous essays which have appeared in this journal. Ladislav Orsy concluded an essay in 1982 with this statement: "About the doctrine and law of Christian marriage, we ought to think afresh."<sup>1</sup> Susan Wood, in an essay in 1987, invited "criticism and refinement of the theological principles involved."<sup>2</sup> I accept both

<sup>1</sup> "Faith, Sacrament, Contract, and Christian Marriage: Disputed Questions," *TS* 43 (1982) 398.

<sup>2</sup> "The Marriage of Baptized Non-Believers: Faith, Contract, and Sacrament," *TS* 48 (1987) 280. The essays of Orsy and Wood do not exhaust the writing on the subject(s) of this essay. I shall mention here only collections in which a reader will be exposed to both sides of the questions: *Foi et sacrement de mariage* (Paris: Chalet, 1974); Walter Cuenin,

Orsy's challenge to think afresh and Wood's invitation to be positively critical.

I agree with Orsy that theology has a firm answer to the foundational question on which the others rest, the question of the necessity of personal faith for salvation. That answer, in Trent's solemn declaration, is that without faith "it is impossible to please God and to be counted as his sons."<sup>3</sup> It is an answer that is long traditional in Catholic doctrine, and it applies in sacraments, even in the sacrament of marriage. In the present religious context, which Wood describes as "secular" but which is more correctly described as "secularized,"<sup>4</sup> I expect it to become ever more reinforced and clarified.

Law, including canon law, is not theology. Law likes things clear and, if they are not clear, it likes to make them clear in juridical norms. Law, therefore, will have difficulty dealing with the theological fact of Christian faith, the presence or absence of which is impossible to make clear beyond doubt. I disagree, therefore, with Wood when she states that "the fact that the new Code [1983] has been promulgated undoubtedly changes the tenor of the present theological discussion of the issue."<sup>5</sup> The publication of the Code has no decisive bearing on the theological facts, for the theological fact of personal faith is always the result of active faith, never of juridical norm. Orsy's comment is more apposite. When theological and legal facts do not accord, "custom may prove itself again as the best interpreter of the law."<sup>6</sup>

#### FAITH

The reality of faith will be central in this study, and therefore I must clarify its meaning from the outset. We may start, as one frequently starts in Catholic theology, with Thomas Aquinas. For Thomas, faith is "an act of the intellect assenting to divine truth at the command of the will moved by the grace of God, so that it is subject to free choice in relation to God."<sup>7</sup> Faith is essentially an act of the intellect "assenting

*The Marriage of Baptized Non-Believers* (Rome: Gregorian University, 1977); Thomas P. Doyle, ed., *Marriage Studies: Reflections on Canon Law and Society*, Vols. 2-3 (Washington, D.C.: Canon Law Society of America, 1982 and 1985); Richard Malone and John R. Connery, eds., *Contemporary Perspectives on Christian Marriage* (Chicago: Loyola University, 1984); John Baptist Sequeira, *Tout mariage entre baptisés est-il nécessairement sacramental?* (Paris: Cerf, 1985); Theodore Mackin, *The Marital Sacrament* (Mahwah: Paulist, 1989).

<sup>3</sup> Denzinger-Schönmetzer, *Enchiridion Symbolorum* 1532; see 1529. Cited hereafter as DS.

<sup>4</sup> Cf. Wood "The Marriage" 279; Michael G. Lawler, *A Theology of Ministry* (Kansas City: Sheed and Ward, 1990) 46-48.

<sup>5</sup> Wood "The Marriage" 283.

<sup>6</sup> Orsy, "Faith, Sacrament" 387.

<sup>7</sup> *Summa theologiae* 2-2, q. 2, a. 9, c. Cited hereafter as *ST*.

to divine truth," but it is not an act of the intellect alone. The will also is involved, and therefore the act of faith is a free act. Thomas explains that "although elements pertaining to the will can be considered accidental to the acts of the intellect, they are however essential to faith."<sup>8</sup> Since the will is involved in faith, so also is love. "Love is called the form of faith, in so far as the act of faith is perfected and formed by love."<sup>9</sup>

This is the kind of faith that the Council of Trent later taught to be necessary for salvation: "We may be said to be justified through faith, in the sense that 'faith is the beginning of man's salvation' . . . 'without which it is impossible to please God' (Hebrews 11:6) and to be counted as his sons."<sup>10</sup> Faith is not only *fides fiducialis*, trusting in God, as Luther implied, but includes also an assent to some truths<sup>11</sup> and, as James taught, is "dead without works" (James 2:17).<sup>12</sup> Though Trent offers no concise definition of faith, its characteristics are clear. It is a free act, embracing more than just intellectual assent to truths, and it is necessary for salvation. That teaching will be continued in both Vatican Councils.

The First Vatican Council repeated what had become traditional Catholic doctrine: faith, which is "a supernatural virtue by which, under God's inspiration and grace, we believe to be true what he has revealed," is "the beginning of human salvation."<sup>13</sup> It emphasized more than Trent did that faith is more than intellectual assent, teaching that it is an act "by which a man gives free obedience to God by cooperating and agreeing with his grace, which can be resisted."<sup>14</sup> The Second Vatican Council moved even further away from an overly intellectualist conception, teaching that the obedience of faith is an act "by which man entrusts his whole self freely to God, offering 'the full submission of intellect and will to God who reveals,' and freely assenting to the truth revealed by him."<sup>15</sup> Faith is not only intellectual but is more especially personal.

A characterization of Christian faith, then, is not difficult to provide. I borrow a summary from Juan Alfaro. Faith "includes knowledge of a saving event, confidence in the word of God, man's humble submission and personal self-surrender to God, fellowship in life with Christ, and a desire for perfect union with him beyond the grave. Faith is man's comprehensive 'Yes' to God's revealing himself as man's savior in Christ."<sup>16</sup> Wood might argue that these are "maximalist terms."<sup>17</sup> I

<sup>8</sup> *De Veritate* q. 14, a. 3, ad 10.

<sup>10</sup> DS 1532.

<sup>12</sup> DS 1531 and 1569.

<sup>14</sup> DS 3010.

<sup>15</sup> Dogmatic Constitution on Divine Revelation, no. 5.

<sup>16</sup> "Faith," in *Sacramentum Mundi: An Encyclopedia of Theology* (New York: Herder, 1968) 2.315.

<sup>17</sup> Wood, "The Marriage" 282.

<sup>9</sup> *ST* 2-2, q. 4, a. 3, c.

<sup>11</sup> DS 1534.

<sup>13</sup> DS 3008.

respond, on the contrary, that they are minimalist. The faith that is obedience and self-surrender to God, the traditional *fides qua creditur*, is a free, and at least a minimally conscious and explicit, act. It is in this sense that the term "faith" will be used throughout this essay.

#### FAITH AND SACRAMENT

The answers to the theological and canonical questions dealt with in this essay depend on the answer to one foundational question: Is the personal faith of the sacramental participant<sup>18</sup> necessary for salvation? The answer to that general question will contribute to the answer to a more specific question: Is the personal faith of a participant necessary, not just for the fruitfulness but also for the validity of the sacrament? It will contribute an answer, therefore, to an even more specific question: Is the personal faith of the participants, that is, the marrying couple, necessary for the validity of the sacrament of marriage? The theological answer to the foundational question is, beyond any doubt, "yes." The theological answer to the other two is equally "yes." It is not enough, of course, simply to record these answers; they must also be explicated theologically. I shall explicate each in turn.

#### *Faith and Salvation*

One cannot read the New Testament without being impressed by its emphasis on the necessity of faith for salvation. The Gospels record that Jesus complained about the absence of faith and as insistently praised its presence (Matthew 8:5–13; 8:23–27; 9:2; 9:20–22; 17:19–21; 21:18–22; Mark 5:25–34; 6:1–6). Paul vehemently defended the necessity of personal faith for salvation (Romans 1:16–17; 3:26–30; 5:1; Galatians 3:6–9). The tradition of the necessity of faith continued in the Church and flowered on both sides of the Reformation controversies.

Martin Luther made his stand on "faith alone" (*sola fides*). The Council of Trent, though wishing to combat the Lutheran teaching that faith *alone* was necessary for salvation, still left no doubt about the necessity of personal faith: "We may be said to be justified through faith, in the sense that 'faith is the beginning of man's salvation,' the foundation and source of all justification, 'without which it is impossible to please God' (Hebrews 11:6) and to be counted as his sons."<sup>19</sup> The same teaching is repeated in the important chapter on justification, where baptism is

<sup>18</sup> Since, in modern sacramental theology, a sacrament is not a thing which one can receive, but a symbolic interaction between God in Christ and humans in which one can participate, I choose the personal word *participant* and refuse the objective *recipient*. See Michael G. Lawler, *Symbol and Sacrament: A Contemporary Sacramental Theology* (New York: Paulist, 1987).

<sup>19</sup> DS 1532.

described as “the sacrament of faith, without which no man has ever been justified.”<sup>20</sup> The Latin text leaves no doubt that the phrase “without which” (*sine qua*) qualifies faith and not sacrament or baptism, both of which would require *sine quo*.<sup>21</sup> There is not the slightest doubt that the Fathers of Trent wished to affirm the primacy of active, personal faith for salvation.

The firm Tridentine position notwithstanding, the polemical context of the times created an uneasiness in Roman Catholic assertions about faith and its place in the process of salvation. Following Trent’s lead of isolating, in order to condemn, the error in the assertions of the Reformers, Counter-Reformation theologians advanced their theologies as counterpoint to those of the Reformation. Nowhere did this theological minimalism, and frequent nominalism, cause more detriment than in the understanding of the role of personal faith in the sacraments. That detriment crystallized in a restricted notion of the Scholastic expression *opus operatum*.<sup>22</sup>

### *Faith of the Participant and Sacrament*

In the years immediately preceding the convocations at Trent, nominalism was rampant in the theological disciplines. Nominalist theologians taught that the only thing a person receiving (*sic*) a sacrament need do was to place no obstacle to grace. This meant that one needed only to be free from mortal sin; grace was then conferred by the mere physical positing of the rite. It was just such a mechanical understanding of *opus operatum* that provided the basis for the objections of the Reformers about automatic grace and led to their rejection of the very notion of *opus operatum*.

Since nominalist theologians, however, constituted a majority at Trent, it was the nominalist definition that became “*the* exhaustive definition of the *opus operatum* of the efficacy of any sacrament.”<sup>23</sup> The complementary scholastic concept of *opus operantis* was developed as something separate. One could first receive sacramental grace by receiving a sacrament free from grave sin and with the right intention. Then, *ex opere operantis*, one could receive other graces. Such a dichotomy of *opus operatum* and *opus operantis* was foreign to the thinking of the great

<sup>20</sup> DS 1529.

<sup>21</sup> “Huius iustificationis causae sunt . . . instrumentalis item sacramentum baptismi, quod est ‘sacramentum fidei’ *sine qua* nulli unquam contigit iustificatio.”

<sup>22</sup> It is not without significance that, when Leo XIII enthroned Scholasticism as the official Roman Catholic way to do theology, it was not the Scholasticism of the sixteenth century that he selected but that of the thirteenth.

<sup>23</sup> Piet Fransen, “Sacraments: Signs of Faith,” in *Readings in Sacramental Theology*, ed. C. Stephen Sullivan (Englewood Cliffs: Prentice Hall, 1964) 62 (emphasis in original).

Scholastics, of whom Aquinas can again serve as exemplar. Thomas frequently used the concept *opus operatum* in his early *Commentary on the Sentences* but never in his final work, the *Summa Theologiae*. This fact may be taken as indication that he did not consider the term necessary to the presentation of a mature sacramental theology. Indeed, "the truth that this terminology was intended to bring out was presented satisfactorily, and even in finer detail, in his Christological appreciation of the sacraments."<sup>24</sup>

The Christological character of a sacrament as the work of God in Christ is the fundamental doctrine underlying Thomas' understanding of *opus operatum*. On this fundamental basis rest all other ways of using the phrase. Baptism, for instance, "justifies *ex opere operato*: this is not man's work but God's." Baptism has effect, not because of the merits of the person being baptized, "but because of the merits of Christ." It is efficacious "because of the passion of Christ."<sup>25</sup> *Opus operatum* relates sacramental validity to the passion of Christ. It is not the external rite that effects grace, at least not as principal cause,<sup>26</sup> but the sacred reality that is signified by the external rite, namely, the gracious and salvific action of God in Christ.

*Opus operatum* contrasts the constitution of a sacrament *qua* external sign in the Church and the subjective disposition of either the minister or the recipient. Because of the action of God in Christ embodied in it, a sacrament is constituted as valid sign without any contribution from the recipient, without any *opus operantis*. It is not, however, constituted as an *efficacious* sign, that is, as a sign which actually mediates grace, without *opus operantis*. Since a sacrament is not just any sign of grace but specifically an efficacious sign, if it is not constituted as efficacious sign, then it is not constituted as sacrament.<sup>27</sup> For the great Scholastics, *opus operatum* and *opus operantis* were not dichotomized as they were to be in the Counter-Reformation church. They were essentially related. The latter was regarded as the "personal aspect in the justifying process of any sacrament, that aspect by which a free and responsible person accepted God's grace" offered in the efficacy of the former.<sup>28</sup>

It is true that Thomas distinguishes two separate effects of sacraments. There is, first the *perceptio sacramenti*, the reception of a valid sacrament,

<sup>24</sup> Edward Schillebeeckx, *Christ the Sacrament of Encounter with God* (New York: Sheed and Ward, 1966) 83.

<sup>25</sup> *In IV Sent* d. 15, q. 1, a. 3, sol. 3 ad 2; *ibid.* d. 6, q. 1, a. 3, sol. 2; *ibid.* d. 4, q. 3, a. 3, qc. 4, obj. 1.

<sup>26</sup> Cf. *ST* 3, q. 62, a. 1.

<sup>27</sup> See Lawler, *Symbol and Sacrament* 29-36.

<sup>28</sup> Fransen, "Sacraments: Signs of Faith" 63.

which he teaches is quite unrelated to the faith of the participant. There is, secondly, the *perceptio rei sacramenti*, the fruitful reception of sacramental grace.<sup>29</sup> This doctrine on the validity of a sacrament without any contribution on the part of the participant, however, needs to be understood in its own context and not in that of a later, juridically controlled theology.

Thomas' distinction between *perceptio sacramenti* and *perceptio rei sacramenti* rests on a view of sacrament as a thing. That thing owes its validity to the fact that it is an *opus dei et Christi* and, therefore, valid *qua* thing-sign irrespective of any contribution from the recipient. But, though he subscribes to this established view, Thomas also has no doubt about "the abnormal and, in the end, monstrous character of this hypothesis. Every sacrament for him remains a sign and a proclamation of personal faith. Whoever receives it without believing in his heart places himself in a violent state of 'fiction' and deprives himself of sacramental grace."<sup>30</sup> Albert the Great is more explicit, stating baldly that the sacrament of marriage derives its efficacy not only *ex opere operato* but also *ex opere operantis*.<sup>31</sup> Bonaventure echoes this opinion, teaching that the sacrament of marriage can be distinguished only by a modicum of personal faith.<sup>32</sup>

Contemporary sacramental theology approaches a sacrament not as a thing which believers receive, but as a graced interaction in and through which they express both their acceptance of the gift of God and the gift of themselves in return through Christ in the Spirit to the Father. Considered in the abstract, a sacrament may be located only within the category of efficacious sign. If that is all there is to a sacrament, then it is constituted as valid without any contribution on the part of the participant. But that is not all there is.

A sacrament in the concrete, one in which a real human person participates, requires a third category, that of participating subject. There is no concrete possibility of a concrete efficacious sign without a human subject for whom it is a real, efficacious sign. There is, specifically, no concrete possibility of sacramental signification without a human subject who participates in a symbolic action and relates this action with the

<sup>29</sup> *In IV Sent* d. 6, q. 1, a. 3, sol. 1; cp. *ST* 3, q. 68, a. 8.

<sup>30</sup> Louis Villette, *Foi et sacrement: De Saint Thomas à Karl Barth* (Paris: Bloud et Gay, 1964) 40.

<sup>31</sup> "... in illo est actus personalis et moralis et civilis ... et non trahit vim ab opere operato tantum sed etiam ab opere operantis" (*In IV Sent* d. 26, a. 14, q. 1).

<sup>32</sup> "Sunt et alia [sacramenta], quae quodam modo ab instinctu naturae sunt, ut matrimonium in quo est maris et feminae coniunctio ... partim etiam sunt a fide, scilicet quod illa coniunctio significet coniunctionem dei cum anima" (*In IV Sent* d. 26, a. 2, q. 1, conclusio).

Church to God in Christ.<sup>33</sup> The sacramental sign in baptism, for instance, is not just physical water. It is water poured on a human subject within a matrix of meanings that includes God in Christ, Christ in the Church, and human subject in the Church and in Christ. A sacrament does not happen when a human subject submits to a physical rite, for a sacrament is not a naked physical rite but a symbolic interaction.

A tradition in the Church, established in the controversy between Augustine and Pelagius and verified regularly ever since, is that men and women are free persons and are graced, not against their will, but according to their cooperation (*cooperatio*).<sup>34</sup> If they have no intention of personally participating in a sacrament, then no mere physical submission to a physical rite will submit them to a saving sacrament. In such a case, though I have no doubt that a sacramental *opus operatum* is objectively offered by God in Christ in the Church, I equally have no doubt that a subject fails to participate in it. The sacrament offered still signifies the saving action of God in Christ in the Church, but not as *concretely* significative, and therefore effective and sacramental, for this subject. The subject's *opus operantis* is required in order to transform the *opus operatum* into an efficacious sign of the action of God in Christ, that is, into a valid sacrament.<sup>35</sup>

It is for the validity of sacramental signification that the faith of the participant is required. One "must signify acceptance of what the church offers. Otherwise the sacrament is not a *concrete, practical* sign of the divine will to save all men."<sup>36</sup> Since the Catholic tradition of the past millennium teaches that sacraments cause by signifying, when they do not signify neither do they cause; and when they do not cause, they are not valid sacraments. It is not just that they are valid but fruitless sacraments. They are fruitless precisely because, for this individual, they are not efficacious signs and, therefore, not valid sacraments. The participant's *opus operantis* is required to make a sacrament fruitful because it is first of all required to make a sacrament a concrete and valid sign.<sup>37</sup>

Personal faith, therefore, enters into the essence of valid sacramental-ity as the necessary personal complement in the signification and conferral of grace. Men and women are graced and saved according to the nature the creator gifted to them, in the Catholic tradition a free nature.

<sup>33</sup> See Lawler, *Symbol and Sacrament* 5-28.

<sup>34</sup> Cf. DS 373-97.

<sup>35</sup> Cf. Colman O'Neill, "The Role of the Recipient and Sacramental Signification," *The Thomist* 21 (1958) 257-301, 508-40.

<sup>36</sup> *Ibid.* 275-76 (emphasis in original).

<sup>37</sup> Obvious difficulties with such an approach arise in the baptism of infants. But the baptism of adults, not the baptism of infants, is the paradigm for sacramental baptism. For one solution to such difficulties, see O'Neill, *ibid.* 276-96.



They cannot be graced coercively or automatically, for that would violate their nature.<sup>38</sup> A sacrament is a sign not only of the gracing action of God in Christ (*opus operatum*), but also of the free faith of the participant cooperating with grace in this ritual (*opus operantis*). A valid sacrament requires the conjunction of both the action of God and the faith of the participant, and only in such conjunction is there free, and therefore valid and fruitful, interaction between them. As Aquinas taught long ago, the passion of Christ "achieves its effect in those to whom it is applied through faith and love and the sacraments of faith."<sup>39</sup>

In an analysis of remarkable depth, Villette argues that "rooted in the scriptures and the teaching of the Fathers, systematized in various ways in the Scholastic period, defined . . . by the Council of Trent, defended and explicated by the post-Tridentine theologians,"<sup>40</sup> there is a doctrinal constant in the Roman Catholic position vis-à-vis personal faith and sacraments. That constant is the simultaneous and complementary affirmation of the efficacy of sacraments instituted by Christ and the absolute necessity of personal faith for this efficacy to impact on a concrete subject. Up to the Council of Trent, Catholic theologians affirm unanimously that sacraments are efficacious "by" faith, "in" faith, "in proportion to" faith. After Trent, they insist that "faith alone" did not justify, but faith in and through sacraments. This was not, however, to deny the necessity of faith but to deny only that faith *alone* was necessary. When the Second Vatican Council taught that sacraments "not only presuppose faith but by words and objects they also nourish, strengthen and express it,"<sup>41</sup> it was merely summarizing a long-established Catholic tradition.

### *Faith and the Sacrament of Marriage*

If the argument of the preceding sections is valid, then the assertion of this section is already demonstrated. The active faith of the participants is an essential prerequisite not just for the fruitfulness of a sacrament but also for its very validity. That the Code of Canon Law's assertion, "a valid marriage contract cannot exist between baptized persons without its being by that very fact a sacrament" (canon 1055, par. 2), is at odds with this theological assertion is of no decisive *theological* import. As I stated at the outset, law likes clarity and likes to create clarity where there is none. Today, the faith-situation of baptized persons is anything but clear, and the Church and its theologians acknowledge two kinds of baptized, believers and nonbelievers.<sup>42</sup> The two

<sup>38</sup> See *ST* 1-2, q. 113, a. 3 and 4.

<sup>39</sup> *ST* 3, q. 49, a. 3, ad 1.

<sup>40</sup> *Foi et sacrement* 2.367.

<sup>41</sup> *Sacrosanctum concilium* no. 59.

<sup>42</sup> See the paper of the International Theological Commission, "Propositions on the Doctrine of Christian Marriage" 2.3, in Richard Malone and John R. Connery, eds., *Contemporary Perspectives on Christian Marriage* (Chicago: Loyola Univ., 1984) 15, 19-21.

are distinguished theologically on the basis of the presence or absence of active personal faith. They ought never, therefore, to be equated in law as easily as the Code equates them.

Of course, in any given case the active faith or nonfaith of a baptized person (and the various shades in between) will not be easy to ascertain. But no amount of legal presumption will supply for the lack of active faith and consequent lack of sacramentality. Convinced of the necessity of faith for valid baptism, Augustine sought to make good the evident lack of faith in infant baptism by arguing that *ecclesia fidem supplet*.<sup>43</sup> That argument cannot be applied in the case of marriage, for in marriage, we are dealing with *adults* who are required to have an active faith to participate in any sacrament, baptism as well as marriage, witness the scrutinies at the baptism of adults.

Marriage becomes a sacrament, not because of some juridical effect of baptism, but because of the active faith of the couple. Those who marry without active Christian faith, be they ever so baptized, marry also without *Christian* sacrament. Elaboration and demonstration of that assertion follows from a brief consideration of the underscored adjective *Christian*.

An extraordinary statement by Wood may serve as introduction and counterpoint to this consideration. "A marriage entered into with an intention to indissolubility, fidelity, and openness to children comprises a sacramental marriage for the baptized person. . . . the religious marriage is valid when the prevailing will is to marry, even if the couple would wish to exclude the sacrament."<sup>44</sup> Surely not. Surely a valid *Christian* sacrament, something more than a "religious marriage," must have some explicit reference to that *more*. And surely that *more* embraces explicit reference to Jesus, who is actively confessed as the Christ, and to that community of people called Church, which is actively confessed as the Body of Christ in the world.

In 1980 the Synod of Bishops considered the question of the relationship of faith and sacrament in marriage and gave quasi-unanimous support (201 placet, 3 non placet) to this proposition: "We have to take into account the engaged couple's degree of faith maturity and their awareness of doing what the church does. This intention is required for sacramental validity. It is absent if there is not at least a minimal intention of believing with the church." The *more* that is involved in sacramental marriage relates to Church, and therefore to Christ and to God. A sacrament is essentially a Christ-event.

<sup>43</sup> See *Epist* 98.5 *Patrologia Latina* 33.362. See also *ST* 3 q. 68, a. 9; "Baptism for Children," in *The Rites of the Catholic Church* (New York: Pueblo, 1976) 188; Jean Charles Didier, *Faut-il baptiser les enfants?* (Paris: Cerf, 1967) passim.

<sup>44</sup> Wood, "The Marriage" 300.

The intention to participate in any sacrament is the intention to participate in a Christ-event. The intention to participate in a Christian marriage is the intention to participate in a sacramental marriage explicitly acknowledged as a Christ-event. In Tillard's judgment, "the request for a sacrament can never be the request for a purely external ritual that has no connection with the mystery of salvation. The request for a sacrament is a request for a 'rite that gives salvation'."<sup>45</sup> The covenant of Christian marriage becomes sacramental, Martelet argues, "only if the future spouses freely consent to enter into married life by passing through Christ into whom they were incorporated in baptism."<sup>46</sup>

The Second Vatican Council had specific theological statements to make about Christian marriage, statements repeated more or less faithfully in the new Code of Canon Law. "The intimate partnership of married life and love . . . is rooted in the conjugal *covenant* of irrevocable personal consent." It is "a reflection of the loving *covenant* uniting Christ with the church," and is "a participation in that *covenant*."<sup>47</sup> If it does nothing else,<sup>48</sup> the word "covenant" returns the conception of Christian marriage to its roots in the Christian Scriptures.

The Christian faith tradition reveres three covenants. There is, first, the steadfastly loving covenant of the Old Law, uniting Yahweh and Yahweh's people. There is, second, the steadfastly loving covenant of the New Law, uniting Christ and Christ's Church. There is, third, the steadfastly loving covenant of Christian marriage, uniting a Christian man and woman in an intimate partnership of life and love. The third covenant is rooted in the other two. It is rooted not only in the love of the spouses for one another but also in the love of Christ for his Church and, therefore, also for them. It is this rootedness that moves the Catholic traditions to speak of Christian marriage as the symbol or sacrament of the loving union between Christ and the Church.<sup>49</sup>

The key that opens the door to such covenantal and sacramental meanings is not just the intention of the spouses to marry, their intention to "fidelity, indissolubility, and openness to children," but rather their intention informed by their Christian faith to be rooted in, to represent and to pass their marriage through Christ and his Church. Consent may

<sup>45</sup> "Sacramental Questions: The Intentions of Minister and Recipient," *Concilium* 31 (1967) 130.

<sup>46</sup> G. Martelet, "Sixteen Christological Theses on the Sacrament of Marriage," in Malone and Connery, eds., *Contemporary Perspectives on Christian Marriage* 279.

<sup>47</sup> Pastoral Constitution on the Church in the Modern World, no. 48.

<sup>48</sup> See Ladislav Orsy, "Christian Marriage: Doctrine and Law," *Jurist* 40 (1980) 282-348; also "Faith, Sacrament" 387, n. 9.

<sup>49</sup> See Michael G. Lawler, *Secular Marriage, Christian Sacrament* (Mystic: Twenty-Third Publications, 1985) 5-21, 61-72.

make marriage as a secular institution, but it is only Christian faith, a comprehensive, personal “yes” to Christian and salvific realities, that makes it also a sacrament.

It is not the naked intention to marry, even to marry in some religious rite, that makes valid Christian sacrament. It is the Christian faith-informed intention to marry in a ritual that publicly proclaims to the spouses, to the Church, and to the world not only “I love you,” but also “I love you in Christ and in his Church.” That active and faith-informed proclamation creates not only a marriage but specifically a Christian marriage. It is time to consider the intention that undergirds that proclamation.

#### FAITH AND INTENTION

Great stress is laid in sacramental theology on sacramental intention. Wood articulates the classic principle: “To intend to receive a sacrament, it is sufficient to intend by that action what the church intends by its sacrament.”<sup>50</sup> This short but integral section asks about the relationship between the intention traditionally required for the valid reception of sacrament and personal Christian faith. Put simply, the question is this: Can a person have a real intention to participate in a sacrament without at least minimal personal faith?

Aquinas suggests an answer: “Faith directs intention, and without [faith] intention cannot be right” (*fides intentionem dirigit, et sine ea non potest esse . . . intentio recta*).<sup>51</sup> The phrase provokes a question: Is the distinction between real intention and faith as clear-cut as the distinction between theoretical intention and faith? The International Theological Commission offers an answer: though intention and personal faith are not to be confused, they are not to be totally separated either. “The real intention,” they teach, “is born from and feeds on living faith.”<sup>52</sup> One cannot have a right sacramental intention without at least a minimum of personal faith.

A recall of the preceding section will substantiate this judgment. The right intention to participate in a sacrament is the intention to participate in a rite that gives salvation, a God-in-Christ and Christ-in-the-Church event. None of this, God-in-Christ or Christ-in-Church, can be intended without being at least minimally known and embraced in personal faith. The right intention to participate in a sacrament, therefore, requires a minimum of personal faith. When personal faith is absent, so too is right

<sup>50</sup> Wood, “The Marriage” 292.

<sup>51</sup> *In IV Sent* d. 6, q. 1, a. 3, ad. 5.

<sup>52</sup> “Propositions on the Doctrine of Christian Marriage” 2.3, in Malone and Connery, eds., *Contemporary Perspectives on Christian Marriage* 15.

sacramental intention; and when right intention is absent, then, as the tradition universally holds, the sacrament is not valid, but null.

Denis O'Callaghan underscores that "addressing the question of the sacramentality of the marriage of the nonbelieving baptized couple along the line of the absence of intention rather than that of the absence of faith keeps us within the parameters of what is a very firmly based *theological* tradition."<sup>53</sup> The theological judgment, no personal faith—no right intention, is a well-founded judgment. The conclusion that flows from it is equally well founded: without faith no one can enter into a valid sacramental marriage. Though the canonical judgment is at variance with this theological conclusion, continuing to cling to the claim that "a valid marriage contract cannot exist between baptized persons without its being by that very fact a sacrament" (canon 1055, par. 2), "custom may prove itself again as the best interpreter of the law."<sup>54</sup>

In reality, of course, there is no theological debate about whether faith is necessary or not for sacramental validity. It is taken as a given that it is. The real debate is over what qualifies as faith. Wood, for instance, agrees that faith is necessary both for the validity of a sacrament in general and for the validity of the sacrament of Christian marriage specifically. She judges, however, that faith cannot be reduced to "an explicit and conscious act of faith," and that a person "can possess the habit of faith . . . most especially through baptism."<sup>55</sup> This baptismal habit seals the new Christian evermore as "believer." Wood's judgment, I suggest, and that of Canon 1055 too, rests on a classic scholastic distinction which opens the word "faith" (*fides*) to serious ambiguity and, therefore, misunderstanding.

In the tradition derived from Scholasticism, *faith* refers either analogically to the power of faith (*virtus fidei*) or univocally to the explicit act of faith (*actus fidei*). A *virtus* is a quality<sup>56</sup> ordered to an act,<sup>57</sup> a power to act. A virtue is a necessary prerequisite to the corresponding act, but it is not the act nor does the act ineluctably follow from the virtue. The Catholic tradition holds that it is the virtue of faith that is bestowed in baptism.<sup>58</sup> For that virtue to become a personal act of faith, it must be activated, freely, explicitly, however minimally.

In a grown-up person, Orsy comments, "the infused virtue must blossom out in a personal act."<sup>59</sup> It is that personal act of faith, however minimal, and always under the grace of God,<sup>60</sup> that transforms the human

<sup>53</sup> "Faith and the Sacrament of Marriage," *Irish Theological Quarterly* 52 (1986) 172–73 (emphasis added).

<sup>54</sup> Orsy, "Faith, Sacrament" 387.

<sup>56</sup> *ST* 1–2, q. 49, a. 1.

<sup>58</sup> *ST* 3, q. 69, a. 4.

<sup>60</sup> Cf. DS 373–97.

<sup>55</sup> Wood, "The Marriage" 294.

<sup>57</sup> *ST* 1–2, q. 49, a. 3.

<sup>59</sup> Orsy, "Faith, Sacrament" 383 n. 7.

being from one who *can* be a believer into one who *is* a believer. It is in that act of faith, and not just in the virtue of faith, that one cooperates with God-in-Christ and Christ-in-Church to transform secular realities, including marriage, into Christian sacraments. It is that act of faith that is required for right sacramental intention.

#### RELATIONSHIP OF CONTRACT AND SACRAMENT

If baptized nonbelievers cannot enter into a valid sacramental marriage, can they marry at all? Can they enter, at least, into a valid civil marriage? That question, on the answer to which *dissentiunt doctores*,<sup>61</sup> asks about the relationship between the contract of marriage and the sacrament of marriage. If the two are not separable, as the Code claims, then if baptized nonbelievers cannot enter into a valid sacrament of marriage, neither can they enter into a valid contract of marriage. In plain language, they cannot marry validly at all. If, on the other hand, the two are separable, then baptized nonbelievers who cannot enter into the sacrament of marriage because they lack active faith can, at least, enter into a valid civil marriage. Since that second opinion appears to be excluded by present jurisprudence, our analysis of the question must begin in the Code of Canon Law.

The 1917 Code asserts that "Christ the Lord raised the matrimonial contract between baptized persons to the dignity of a sacrament" (canon 1012, par. 1). The theological accuracy of that statement is doubtful. Though institution by Christ of *marriage* as a sacrament is retained today in Catholic theology, and explained sacramentally,<sup>62</sup> no Catholic theologian argues that it was specifically the *contract* of marriage that he established as sacrament. Though the Latin church committed itself in the twelfth century to the conception of marriage as contract, the Orthodox church has never considered the canonical contract to be of the essence of marriage, preferring the liturgical and priestly blessing symbolized in the crowning of the bride and groom. It is simply wrong, theologically, in the Catholic traditions, to claim without qualification that Christ raised the contract of marriage to the dignity of a sacrament.

Canon 1012, par. 2, repeated verbatim in new Canon 1055, par. 2, lies at the heart of the present question. "Consequently (*quare*), a valid marriage contract cannot exist between baptized persons without its being by that very fact a sacrament." The particle *quare* is of central interest here. It implies consequence from the previous statement and it is, therefore, translated correctly as "consequently." Here too there is a problem.

<sup>61</sup> Giuseppe Ferrante, *Elementa Iuris Canonici* (Roma: Olivieri, 1880) 86.

<sup>62</sup> See, e.g., Lawler, *Symbol and Sacrament* 48-51.

Can. 1012, par. 1 proclaims that every sacramental marriage is rooted in a valid marriage contract. But does it proclaim also the reverse? Does it teach that every valid matrimonial contract is thereby a sacrament? I think not. I can sympathize with the canonical codifiers in their hesitation "to introduce sponginess into that firm canonical structure which locked the sacrament on to the solid juridical and readily proven fact of baptism."<sup>63</sup> But does what they assert canonically really assert that all that is required for a valid sacrament of marriage is valid baptism? I think not.

Among the *Fontes* for Canon 1012, par. 2, the 1917 codifier, Gasparri, includes the Council of Trent's formal teaching: "If anyone says that *marriage* is not one of the seven sacraments . . . let him be anathema."<sup>64</sup> But note the different language in Trent and in the Code, the former asserting that *marriage* is a sacrament, the latter that *the marriage contract between baptized persons* is a sacrament. The two are vastly different assertions.

In a careful analysis of the notions of contract and sacrament at the Council of Trent, Duval points out what is, in fact, well known. It was by deliberate choice, not by some oversight, that the Council chose simply the word *marriage* and not something like *the marriage contract between baptized persons*. It did so to leave open a theological debate in which, as later, experts held different opinions. "Canon 1 of the Council wishes to affirm the existence in the New Law of a sacrament of marriage—but not that marriage in the New Law is always a sacrament."<sup>65</sup> To say "that the Council of Trent declared the inseparability of sacrament and contract seems to weight the texts with a burden they are incapable of bearing logically or historically."<sup>66</sup> Far from declaring, even implicitly, the inseparability of contract and sacrament, Trent deliberately chose to leave the question open.

So, too, did the Theological Commission for the First Vatican Council, swayed by the Roman theologian, Giantommaso Tosa. The Commission judged that the inseparability of contract and sacrament was not a

<sup>63</sup> O'Callaghan, "Faith and the Sacrament of Marriage" 165.

<sup>64</sup> DS 1801 (emphasis added).

<sup>65</sup> A. Duval, "Contrat et sacrement de mariage au Concile de Trente," *La Maison Dieu* 127 (1976) 50 (emphasis in original). Cf also Edward Schillebeeckx: "It is therefore historically incorrect to link the later theory (of the inseparability of contract and sacrament) . . . in any way with the Council of Trent" (*Marriage: Human Reality and Saving Mystery*, trans. N. D. Smith [New York: Sheed and Ward, 1965] 362–63). See also J. B. Sequeira, *Tout mariage entre baptisés est-il nécessairement sacramental?*

<sup>66</sup> James A. Nowak, "Inseparability of Sacrament and Contract in Marriages of the Baptized," *Studia Canonica* 12 (1978) 329.

doctrine that could be defined because neither was it contained in the sources of revelation nor did it flow inescapably from any truth that was in the sources.<sup>67</sup> It is unfortunate that Garibaldi's invasion of the Papal States prevented that judgment from being debated in the Council and from being incorporated into the authentic teaching of Vatican I.

Gasparri's expansion of Trent from *marriage* to *marriage contract between baptized persons* may not be considered an explanation, and even less an authentic explanation, of Trent's doctrine. Indeed, the great codifier himself judged in 1891 that "marriage among Christians is a sign of a sacred thing in Christ and in the church, and to it grace is joined, but it is not proved that force of producing grace is placed in the matrimonial contract itself."<sup>68</sup> If we wonder what caused Gasparri to change his mind between 1891 and 1917, the *Fontes* may provide a clue.

The *Fontes* for canon 1012, par. 2 are well known, and I see no need to rehearse them yet one more time.<sup>69</sup> There is a hermeneutical need, however, to seek to understand them in their context. I suggest that, when the *Fontes* use the word *contract*, they appear to refer not so much to the contract between the spouses as to the marriage which results from it. The nineteenth century *Fontes* particularly assert the identity of "contract," that is marriage, and sacrament to assert the legitimate power of the Church over "*marriage among Christians*" more than to assert the identity of legal contract and sacrament. An 1817 instruction from the Holy Office states this conclusion baldly: "There can be a contract of marriage which may not be a sacrament; nevertheless, there cannot be a sacrament of marriage in which the contract itself is not a sacrament."

In *La Lettera* to Victor Emmanuel II in 1852, Pius IX makes the clear assertion that "the conjugal union (i.e. marriage) *among Christians* is not legitimate if it is not in the sacrament of marriage."<sup>70</sup> That same year in *Acerbissimum*, he teaches that "there cannot be a marriage *among the faithful* without its being at one and the same time a sacrament."<sup>71</sup> In 1864 in the *Syllabus*, he condemns the following as false: "By the force of merely civil contract (i.e. civil marriage) there can exist *among Christians* a true marriage."<sup>72</sup> Finally, in 1875, *Tuae Litterae* condemned Belgian civil law as repugnant to Catholic doctrine because it taught

<sup>67</sup> Eugenio Corecco, "Il sacerdote ministro del matrimonio," *La Scuola Cattolica* 98 (1970) 450.

<sup>68</sup> Pietro Gasparri, *Tractatus Canonice de Matrimonio* 1 (Paris: Institut Catholique, 1891) 130 n. 2.

<sup>69</sup> See, for instance, Nowak, "Inseparability of Sacrament and Contract" 315-63.

<sup>70</sup> *Acta Pii IX* (Roma: Bonarum Artium, n.d.) 2.1.296 (emphasis added).

<sup>71</sup> *Acta Pii IX*, 1.1.393 (emphasis added). <sup>72</sup> DS 2973 (emphasis added).



“that the civil contract (i.e. civil marriage) can be separated from the sacrament *among the faithful*.”<sup>73</sup>

Leo XIII's important contribution to the *Fontes* is his encyclical letter *Arcanum divinae sapientiae* (1880), in which he follows the path marked out by Pius. In Christian marriage, as opposed to civil marriage, “the contract (i.e. the marriage) is not able to be dissociated from the sacrament; a true and legitimate contract, therefore, cannot be without being by that very fact a sacrament,” and “every legitimate union *among Christians* is in itself and through itself a sacrament.”<sup>74</sup> “If any union (i.e. marriage) of a man and a woman *among the faithful of Christ* is contracted outside the sacrament, it lacks the force and the principle of a legitimate marriage.”<sup>75</sup> Christian marriage is contrasted with civil marriage, and Leo asserts that in every marriage “among Christians” contract and sacrament are inseparable. No more than Trent does he assert that in every marriage *inter baptizatos* the marital contract and the marital sacrament are identical.

The care in formulation and the clarity of the assertions cannot be reduced to a mere matter of words. In Christian marriage, in marriage *inter Christifideles*, marriage and sacrament cannot be separated. No statement whatever is made about marriage *inter baptizatos*, and Gasparri's expansion of the papal terms in the Code cannot be considered as an authentic interpretation of their much more meaningful words. The Code's teaching in the matter of *matrimonium inter baptizatos* cannot, therefore, be claimed as traditional. It illegitimately closes the *theological* debate which was, and continues to be, open.

Theologians do not doubt, even today, that sacrament and marriage *inter Christifideles* are identical. Their doubt focuses on marriage *inter infideles*, including *infideles baptizatos*. They judge that *Christifidelis* implies “an attitude of vital, no matter how minimal, congress with the community of believers,” and that baptism, therefore, “without any faith-commitment, is inadequate as the basis for the sacramentality of marriage.”<sup>76</sup>

I do not find convincing Nowak's claim that “it does not appear that there is present here [in the *Fontes*] any real distinction between the word ‘baptized’ and the word ‘Christian’,” especially when it is sustained only by a truncated citation of Canon 87 of the 1917 Code.<sup>77</sup> Canon 87

<sup>73</sup> *Acta Pii IX*, 7.145 (emphasis added).

<sup>74</sup> *Acta Leonis XIII* (Roma: Typographia Vaticana, 1882) 2.25–26 (emphasis added).

<sup>75</sup> *Ibid.* 37.

<sup>76</sup> Raymond C. Finn, “Faith and the Sacrament of Marriage: General Conclusions from an Historical Survey,” in *Marriage Studies: Reflections in Canon Law and Theology* 3, Thomas P. Doyle, ed. (Washington, D.C.: Canon Law Society of America, 1985) 104–5.

<sup>77</sup> “Inseparability of Sacrament and Contract” 360.

states, not only that "through baptism man is constituted a person in the church," as Nowak suggests, but also that man is constituted a person "with all the rights and duties of Christians *unless*, as far as rights go, there is an obstacle in the way of the bond of ecclesiastical communion." Though the Church is prone to weight duties much more heavily than rights, a thesis of this essay has been that, in adults, the absence of active faith is a major obstacle to the bond of ecclesial communion and that, therefore, baptized nonbelievers have no right to be equated with Christian believers. Palmer's judgment is much more to the point: "We never refer to apostates, atheists, agnostics, free-thinkers, or non-believers as 'faithful'."<sup>78</sup>

I am, however, in full agreement with Nowak when he judges that, if there is any difference "in faith-content of the two words, it would seem to enter into the question of intentionality."<sup>79</sup> I have already specified in the preceding section how faith enters into right intention, and how the absence of faith is an obstacle to right intention. Where there is no active faith, there is no Christian *fidelis* and no right sacramental intention, and where there is no sacramental intention, there is no sacrament, no matter how baptized a person appears to be. Baptism and the life it initiates are not juridical realities to be passively mandated; they are theological and sacramental realities to be actively celebrated.

If, then, in the marriage of baptized nonbelievers, there is no sacramental marriage, is there any marriage at all? Is it possible for baptized persons to enter into a valid marriage which is nonsacramental? I agree with Orsy: "There is no other answer than 'Yes, it is.'" But I would reverse the reasons he gives for the answer: "(1) baptism does not take away the human capacity and right to marry, and (2) if there is no faith, there cannot be a sacrament."<sup>80</sup>

#### CONCLUSION

A first, obvious set of conclusions from this study parallels the questions which initiated it. Active Christian faith, "man's comprehensive 'Yes' to God revealing himself as man's savior in Christ," is necessary, in general, for salvation and, in particular, for the validity of sacraments, including specifically the sacrament of Christian marriage. Without active faith, a man and a woman, no matter how apparently baptized, cannot cooperatively participate with God in Christ to cocreate a valid sacramental marriage.

A second conclusion relates to and sustains the first. It is that new

<sup>78</sup> Paul F. Palmer, "Christian Marriage: Contract or Covenant," *TS* 33 (1972) 642.

<sup>79</sup> "Inseparability of Sacrament and Contract" 360.

<sup>80</sup> Orsy, "Faith, Sacrament" 390.

Canon 1055,2, "a valid marriage contract cannot exist between baptized persons without its being by that very fact a sacrament," is traditional only since the 1917 Code of Canon Law. In 1563, the Council of Trent taught clearly that marriage is one of the seven sacraments, but it left open the question on which *doctores dissentiunt*. It affirmed "the existence in the New Law of a sacrament of marriage—but not that marriage in the New Law is always a sacrament."<sup>81</sup> In 1817, the Holy Office taught explicitly that "there can be a contract of marriage which may not be a sacrament." In 1870, the Theological Commission for the First Vatican Council judged that the inseparability of marital contract and marital sacrament could not be defined. In 1880, in *Arcanum divinae sapientiae*, Leo XIII continued along the line laid down by Trent and the Holy Office. In the sacrament of Christian marriage, the marriage *inter Christianifideles*, "the contract is not able to be dissociated from the sacrament," and therefore "every legitimate union among Christians is in itself and through itself a sacrament."<sup>82</sup>

The point here is *theological*, and it is this. Prior to the 1917 Code, the relationship of marital contract and marital sacrament was an open theological question. No ecclesiastical document, including the *Fontes* cited by Gasparri for 1012, par. 2, had ever sought to close it. But canon 1012 effectively closed it by promulgating a juridical norm. That closure stunted the ongoing theological discussion which, at the very least, would have yielded more mature theological data with which to untie the Gordian knot of theological questions. Part of the argument of this essay has been that the juridical closure of the discussion was premature and illegitimate in 1917, continues to be illegitimate in 1990, and that therefore the discussion should be regarded as still theologically open so that the theological facts involved can be examined and fully resolved.

I adduce two signs that the discussion is, still, or again, open. The first is a proposition from the 1980 Synod of Bishops, which was approved 195 to 6, with 5 abstaining:

We must investigate further if this statement applies to those who have lost the faith: "A valid marriage between baptized persons is always a sacrament" . . . We must investigate the pastoral criteria for discerning the couple's faith and the relationship between the intention of doing what the church does and the minimal intention of believing with the church.

The second sign is in *Familiaris consortio*, Pope John Paul II's response to the Synod. In the section in which he deals with "the moral and

<sup>81</sup> Duval, "Contrat et sacrement de mariage" 50.

<sup>82</sup> *Acta Leonis XIII* 2.25-26.

spiritual dispositions of those being married," he acknowledges that "the faith of the person asking the church for marriage can exist in different degrees." He decrees, nevertheless, that when "engaged couples show that they reject explicitly and formally what the church intends to do when the marriage of baptized persons is celebrated," they are not to be admitted to the sacrament.<sup>83</sup> Most interestingly, though the way was then open to him both to ask whether the civil marriage of these baptized nonbelievers was a valid marriage and to reply that it was not, because "a valid marriage contract cannot exist between baptized persons without its being by that very fact a sacrament," he did not do so.

I acknowledge the force of the axiom *ex silentio nihil probatur*. I find it difficult to accept, however, that the Pope's passing over in silence the new Canon 1055, par. 2, approved if not yet promulgated, was simply an oversight. I find it, rather, an unexpected sign that the marriage of baptized nonbelievers is regarded as possibly valid and that the theological discussion peremptorily ended by the Code in 1917 is, in response to the demand of the Synod, quietly reopened. This essay has sought to be a theological contribution to that discussion at a critical time for marriages between the baptized.

A third, and final, conclusion relates to the vexed question of the indissolubility of marriage. Anyone familiar with the jurisprudence and the practice of the Catholic Church knows that the only marriage that it holds to be absolutely indissoluble is the sacramental, consummated marriage (canon 1141). The nonconsummated marriage may be, and frequently is, dissolved "for a just reason" (canon 1142), and the nonsacramental marriage may be, and frequently is, dissolved "in favor of the faith" (canon 1143). If the marriages of nonbelievers, including baptized nonbelievers, are nonsacramental, as I have argued, then they are also dissoluble according to the norms of canon 1143. That conclusion is evident and needs no further elaboration. It alone justifies my opening claim that the questions considered here have practical pastoral consequences.

<sup>83</sup> *Familiaris consortio* no. 68.