

BY WHAT AUTHORITY?

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AMERICAN Catholics are apt to be very optimistic in their views of the relations of Church and State. Though they are acquainted with the fierce hatred of Catholicism cherished by a great number of their fellow citizens, they refuse to foresee a possible situation in which their constitutional rights would be entirely disregarded. What would they do were the State to enforce sterilization legislation? Suppress our religious schools? Pass laws which would be in direct opposition to the mandates of the Church? Does their own government claim more authority over the marriage bond than they as Catholics can admit? Does their government admit the preeminent authority of the Catholic Church?

These are questions which Catholics must answer. Though they may not be very pressing today, something may happen tomorrow to make American Catholics open their eyes and see the dangers lurking in the denial of the right of God and His Church to command what is not pleasing to the State.

The time may come when Catholics will have to decide between their allegiance to the Church of God (not to a foreign potentate) and the State that has forgotten that its power comes from God. What will they do? The Catholic believes in the supreme power of God over all His creatures; that He is the Master of the Universe; that we should obey God rather than man. The Catholic also believes that God is the immediate Founder of the Church to which he belongs; that the Church cannot err in deciding matters of Faith and Morals; that she is, moreover, the only judge of what pertains to Faith or Morals. Hence, if she says this must be believed, this must be done, it is with the authority of God Himself that she speaks and no one can command anything contrary.

There are three points we wish to emphasize here. Firstly, if the State were to acknowledge the divine authority of the Church there could be no conflict between the two societies. All the difficulties arise because of the denial of this authority to the Church.

Secondly, it is evident that the State has the obligation to recognize the authority of the Church, though we cannot attempt to prove that now, nor is it necessary, for we are writing principally for Catholics. Finally, and this is the main point, the Catholic, who believes in the divine origin of the Church's authority, should not hesitate to embrace and follow scrupulously her commands, no matter what power conflicts with them.

In order to illustrate these points and bring to the minds of Catholics some of the possible situations in which conflicts can arise we shall consider the relations of the Church and State in regard to Marriage and the Education of children.

Marriage is a contract and also a sacrament. Or rather it is a contract which is a sacrament. In the words of the Canon Law of the Church: "Between baptized persons there can be no valid contract of marriage without there being a sacrament."¹ Its character as a contract derives from God. In accordance with the Divine Will the generation of children was to be accomplished by the union of man and woman. This union had to be stable, for the children of this union must be protected and educated during the early years of their life. Unlike most of the other animals, man cannot take care of himself during the first quarter of his life. As St. Thomas points out, stable unions are the rule in those animal species in which the offspring needs the care of both parents. On the other hand, in those species in which the care of the mother is sufficient there is promiscuous mating.

To insure the stability of the marital union and to protect the rights of both parties, marriage was made a contract. From the beginning this contract was indissoluble. This is evident from the words of Christ in the nineteenth chapter of St. Matthew. "What God hath joined together, let no man put asunder," has always been the supreme law of marriage. Practically all men have recognized the sacredness of the marriage bond. In most nations it has been celebrated as a religious ceremony. As Leo XIII says: "Since it (marriage) has God for its author and from the very beginning was an adumbration of the Incarnation of the Word of God, it is essentially sacred. . . ."²

Marriage either as a contract or as a sacrament has a twofold aspect. It may be considered in itself, or in its relation to the State. And it certainly has a relation to the State. Civil society is an ag-

¹ *Can.* 1012.

² *Encyclical Arcanum.*

gregation of domestic societies, and the domestic society is the effect of the marital union. There are many material considerations arising from the union of man and woman which do not pertain to the ecclesiastical power. Such are the individual fortunes of the husband and wife and the administration of these while both are alive; the succession of the children to their father's position in the world; and the manner of inheriting the property of their parents. The Church does not claim the right to legislate on these matters since they are not essential to the marriage contract. On the contrary, she insists that her children obey the laws of the State in this regard.

In the marriages of non-baptized persons the Church recognizes the right of the State to establish impediments. The State can specify conditions which affect the legitimacy of these unsacramental unions. However, she denies absolutely the right of the State to annul the marriage bond. Since the State claims this right over all marriages, whether they are merely natural contracts or have also received the sacramental seal, we shall discuss the question of divorce with regard to both types of marriage.

Beyond the two cases mentioned—the civil effects of all marriages and the conditions for entering into a purely natural marriage contract—the State has no power over marriage. This is the Church's teaching as expressed in the anathema which the Council of Trent placed on those who say "that matrimonial cases do not pertain to ecclesiastical judges."³ At first sight this declaration does not mean that matrimonial cases belong to the Church alone. Pius VI, however, quoting this canon, says: "It belongs to the Church alone, to whom has been entrusted the entire care of the sacraments, to assign the form of matrimony and to judge of the validity or invalidity of marriages."⁴ According to the Church's teaching, then, she alone has the right to determine the conditions for a valid or licit marriage of Christians. This may not seem very important to American Catholics, but the new government in Spain has refused to recognize a canonical marriage as valid and insists on a civil ceremony. It has gone contrary to the Church's teaching by arrogating to itself complete jurisdiction over the marital contract.

It is also the Church's teaching that the State cannot grant a divorce. This applies to a natural contract and to the sacramental union of Christians. The reason for this can be deduced from the

³ *Sess. 24, c. 12 de mat.*

⁴ *Epis. ad Episcopem Motulensem*, Sept. 16, 1788.

foregoing. As a natural contract, marriage comes directly from God. Man is free to enter the married state or not, but he must abide by the decrees of God once he is married. The civil power is prone to forget this. To the State marriage is a contract subject to the same regulations as other contracts. If two people agree to transact business under contract they are both bound to the terms of the contract, unless both agree to dissolve it. Why not apply the same to matrimony? That is what the State does. But marriage is not the same as any other contract. It is sacred and subject to the laws of God. As a sacrament it is confided to the sole care of the Church. The civil power should not disregard the commands of God, for its power is from Him and should not be used to the detriment of His power. On the other hand, the Church is possessed of the authority of God and should not be cast aside by the State. Were the State to admit the supremacy of God and the divine authority of the Church there would be no conflict between the two jurisdictions. The State would not presume to put asunder what God has joined together. Nor would any Catholic, who believes in God's right to absolute obedience and in the Church's divine authority hesitate to deny the right of the State to grant a divorce.

The second subject of controversy between the Church and the State has been before the American public for some time. The Supreme Court decision in the Oregon school question stemmed for a time the rising tide of secularism in this country. At present we do not admit the right of the State to insist that children be educated in public schools. But in Spain, Russia and Mexico it is a live issue. This question may become urgent in our own country at any time. Many of our fellow citizens still believe that the parochial school is a menace to Americanism and a breeding place of Popery and disloyalty. Catholics are constrained to defend the right to educate their children in schools of their own choice.

The Catholic Church has no intention of denying to the State certain rights and duties in regard to the education of its future citizens. The civil power can intervene if the parents are negligent of their duty. It has also the right to prohibit the teaching of erroneous opinions which would be subversive of morality and good citizenship.

The principle duty of the State is to supply the material means for the education of the children. It should build and equip schools, make appropriations for their upkeep, and pay the salaries of the instructors. This principle is admitted in part by our own government, but State support is confined to public schools. This is evidently un-

just. The most flagrant example is the State of California which has recently refused to exempt private schools from taxes. However, tax exemption is not sufficient. The State has the obligation to support private schools in which parents can have their children educated in the proper moral atmosphere. The reason for this is solid. The State exists to supply the deficiencies of the family. In the nature of things the family is not self-sufficient. Many things can be obtained only by social organization. Hence the State supplements the family. This does not mean that the rights of the family are abrogated. The parents have the obligation to educate their children, not merely for their work in this world, but especially for their ultimate end, the attainment of heaven. They have also the corresponding right to have their children educated in a school where religion is taught. No State can override this fundamental right of the parent.

The teaching of the Church is contained in the condemnation passed on the following propositions by Pius IX. These have been declared *contrary to Catholic teaching*:

45. "The whole government of public schools in which Christian youth are educated, can and ought to be in the hands of civil authority, and so completely in their hands that no right of any other authority is recognized to interfere with school discipline, with the order of studies, with the conferring of degrees or with the selection of teachers."

46. "The best theory of civil society requires that popular schools, open to children of every class of the people, and generally all public institutes intended for instruction in letters and philosophical sciences and for carrying on the education of youth should be freed from all Ecclesiastical authority, control and interference: and should be fully subjected to the civil and political power, at the pleasure of the rulers, according to the standard of the prevalent opinions of the age."

48. "Catholics may approve that mode of education which is disjoined from the Catholic Faith and the power of the Church, and which concerns itself exclusively, or, at least, primarily, with the knowledge of natural things, and the ends of earthly social life."

It is obvious that the secularization of the School is directed against religion and particularly against the Catholic Religion. Its proponents are men who do not realize the value of morality, who are scornful of the prayer of the humble Catholic to His God. They are moderns who prefer to make their own God; the puny little souls who are too proud to see the beauty of the sacrifice of God

made Man. They would rather follow the antiquated lies of French rationalists who denied that Christ ever existed. Hence they are opposed to religious education lest the children be prejudiced in favor of the notions of God, the soul and religion. Some of them admit that if the idea of God be of any value it should be adopted, but it should not be taken too seriously.

Yet Catholics are tempted to doubt the divine authority of the Church when she says that "Catholic children shall not attend neutral, non-Catholic nor mixed schools, that is to say, any school open to Catholics and non-Catholics alike."⁵ They prefer the social (and, as they foolishly think, the intellectual) advancement of their children to the moral and religious advantages to be obtained only at a Catholic school. Sincere Catholics still accept the Church's teaching that their children have souls which must be saved. They acknowledge the evident superiority of the parochial school in the one thing that is necessary. They have at least the assurance that though their children may not gain the whole world, they are in a position to save their souls.

Here, again, the conflict arises because the State refuses to acknowledge the right of the Church to give its children instruction in religion. The Church does not withhold from its members the truths which are conducive to good citizenship. Why should the State deprive the Church of the opportunity to train its members in their religious duties? It is because the State is directed by men who refuse to acknowledge the authority of God or His Church and are bent on destroying the influence of religion on the lives of men.

Catholics must be prepared to stand definitely with their Church on all questions in which she is involved. There are many spheres in which the Church claims no authority. But in those which touch the spiritual interests of men the Church has the prior right to legislate. We insist that there can be no conflict between the Church and the American government as long as the government confines its activity to its proper sphere. But if at any time the civil power commanded something contrary to the laws of the Church, Catholics would be obliged to disobey that command. It is well for American Catholics to realize that they have an impregnable rock to which they must cling if they wish to attain the end they have been striving after all their lives. To Caesar must be rendered the things that are Caesar's, but not one scrap of the things that are God's.

⁵ *Code of Canon Law, Can. 1347.*