

# This Time Fr. McHugh Has Gone Too Far

By WILLIAM H. MARSHNER

PART II

When the head of the Family Life Division of the USCC decides to repudiate the chief Catholic doctrine relating to family life, namely the indissolubility of marriage, he needs a plausible gimmick. It would never do simply to come out and say, "Marriages are dissolvable." One must come up with some ingenious way of saying, "I pledge allegiance to the Catholic doctrine," while emptying the doctrine of all vitality. The trick, if you will, is to promote the Faith into Heaven, so that here below more comfortable ideas may prevail. And the exact method of performing this trick may be learned by reading the October 7th issue of *America*, in which Msgr. McHugh signed a committee document called "The Church and Second Marriages."

Second marriages are possible, of course, for Catholics who can prove the nullity of their first. This is not easy to do, however. People are not stupid. People know what Catholic marriage means. In fact, it is my experience that people who know absolutely nothing else about the Catholic Church are nevertheless acutely aware of her teaching on divorce. Many young couples have deliberately tried to marry outside the Church precisely because they were not sure about what they were doing and therefore didn't want to get "stuck." It is not so much that people are cynical as that they are just not stupid, — not about something as important as getting married. Therefore, when two people have given their consent before a priest of God, it is not very plausible for them to come back a few years later and claim they didn't mean it or didn't know what they were doing. Yet this is precisely what Msgr. McHugh would like to help them to do.

As we saw in the first installment of this report, Msgr. McHugh invents three very elastic excuses. The first is called psychological impotence, which, as he defines it, has no symptoms except marital discontent; in other words, if you have been married a few months or years and discover that you no longer get along, you can go before a Catholic tribunal and claim that you are psychologically impotent. That means either that you were not responsible when you gave consent or that because of psychological incompatibility you and your wife have never really formed a "total community of life and love." Nobody exactly knows what "total community" of this kind means, but from the Church's point of view it is safe to assume that "total community" would be fully present only when husband and wife are both saints, since the rest of us are never quite "totally" selfless. Therefore, if the achievement of "total community of life and love" is made a criterion of valid marriage, every couple in Christendom will be able to get out of wedlock by claiming never to have achieved marriage. This is Msgr. McHugh's second excuse.

The third excuse is equally radical, but it applies only to Americans. The idea here is that we are all shaped by American culture, which, sad to say, sanctions the idea that unhappy marriages are not permanent. Therefore, claims McHugh, almost all of us go to the altar with some thought

in the back of our minds that our consent is not really binding forever. This thought, of course, would be a defect of intention and would invalidate the marriage. Here McHugh gives people an excuse which only a mindreader could disprove. (Of course, there is another problem, which McHugh strangely overlooks: his third excuse might really invalidate all American marriages, so that Catholics in this Country could never marry without agonizing and irresolvable doubts about their status before God!)

But if people are not stupid about the crucial act of marrying, neither are the Church tribunals which are set up to serve justice. Therefore, it is highly unlikely that the tribunals of American dioceses will throw out traditional jurisprudence by admitting pleas which really admit of no proof one way or the other. Now the curious thing is that McHugh and his fellow signers of the document in *America* are also aware that their new excuses for annulment are unprovable, and so they move to a very crucial further step. They foresee that the Church courts will be against them. Therefore, McHugh and friends must find a way to make the courts a dead letter. How to go about it?

Those Catholics who are eager to escape from an unhappy union and who have reason to believe that their marriage can be annulled go to a Church court. Why? Because they believe that the court is infallible? No, but because the Church has disciplinary power. She can set her own rules and punish those who break them by withholding the Sacraments, without which one's chances of gaining Heaven are minuscule. When Christ empowered His Church "to bind and to loose," He was not referring to those matters of Faith and morals which are subject to infallible definition. For these matters the Church can only hand on; certainly she cannot "loose" anyone from them. Rather, Our Lord was referring to disciplinary matters, such as fasts, rubrics, canon laws, and other special duties; these too the Church has a perfect right to impose, even under pain of mortal sin. In the case of marital complications, the Church's right to legislate and adjudicate was made the subject of several specific (and infallible) canons at the Council of Trent. Listen: "If anyone says that the Church did not have the power to determine the impediments to marriage or erred in determining them, let him be anathema; if anyone says that the prohibition to celebrate weddings during certain seasons of the year is a tyrannical superstition, derived from the paganism of the gentiles, or condemns the blessings and other ceremonies which the Church uses in those weddings, let him be anathema; if anyone says that marriage cases do not belong to ecclesiastical judges, let him be anathema." That last anathema is especially important. Already in the sixteenth century there were people who said that Christian marriage, like other religious matters, was an affair of private conscience. There were others who said that marriage is just a natural institution and therefore, to the extent it needs

regulation, must look to the state. And these two positions really amount to the same thing; for as soon as private conscience is made the sole norm of some action, religious or not, no authority is any longer able to regulate that action save secular, political authority, which all the private consciences have to agree to; otherwise they get their throats cut.

These things being so, the first thing that McHugh and his co-signers must do is suppress all mention of the disciplinary power of the Church. Throughout the entire text, there is not a word about this subject, and the contrived silence allows scope to introduce, instead, a pseudo-problem. For, conceding that the three whimsical new excuses will usually not "add up to the moral certainty a tribunal requires" to nullify a marriage, McHugh says that this tribunal will have to find "unproved" a nullity that may, in fact, be real. Therefore, McHugh asks, so long as nullity is merely "unproved," why should those who are involved in such a "dubious" marriage not be free to enter another? Here are his exact words:

"As long as the first marriage is not declared invalid, it is understandable in the present conditions that the Church would hesitate to celebrate a second union. But can these people be reasonably obliged in conscience not to enter a second union? There is a question here of a basic right, the right to marry. Can the Church forbid a person to marry unless it is certain that he does not have this right? . . . In the light of these considerations it is the judgment of this committee that a marriage case is not automatically closed by a negative decision in the legal forum. Regard for the limitations of the law as well as respect for conscience demand (demand!) that the local Christian community provide further professional assistance on a more personal level to help couples form their consciences regarding their freedom to marry. . . . If after such professional consultation a couple decides in conscience that they are justified in entering a second union, the Christian community and its designated representatives should refrain from a judgment of that decision, neither disapproving nor penalizing the couple in any way."

Now four points: 1.) McHugh's silent presupposition is that the Church has a right to impose only that which she can infallibly determine. This is a repudiation of the Gospel, for Christ explicitly gave to his apostles the power "to bind and to loose." Moreover, according to the Gospel and the Council of Trent, it is a heresy to deny that the Church has the power to make rules about marriage and all the complications of marriage. But if the Church has this power, it follows that the baptized can have no such thing as a "natural right" to marry which is not itself subject to the Church's jurisdiction.

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2.) Implicit in McHugh's argument is a savage hatred of the Church's tradition in this area. As if the Church had trampled on people's rights! As if her tradition had forbidden for centuries what simple "respect for conscience" in justice "demands"! Did Henry VIII need to say more?

3.) And speaking of conscience, let us clarify the true issue here. No one is compelled by the Church to live with a woman to whom he seriously believes he is not married. No one is compelled, therefore, to perform any act which he believes to be immoral. The only thing the Church compels a man to do in this instance is to respect a sacrament whose existence he cannot disprove! He is forbidden to marry again because, quite properly, the burden of proof is on him, not on the Sacrament.

4.) James T. McHugh insults the intelligence of his readers, especially those in authority, with a contemptible pretense. He pretends to believe that if his heretical ideas were accepted, Catholics seeking an annulment would still resort to the ecclesiastical courts, waste their time and money on "professional consultation," submit themselves to all kinds of questioning and dialoguing, and only then decide, "in conscience," that they were free to marry whom they damn well please. I categorically refuse to believe that anybody — anybody! — is stupid enough to take this pretense in good faith, including its author. James T. McHugh and his six co-signers know perfectly well that if their "principles" were officially adopted, the entire apparatus of marriage tribunals would be deserted overnight. It is probable, in fact, that these men neither anticipate nor desire such official adoption. It is probable that what they want is a situation like that in Holland, where officially the Catholic doctrine stands, but unofficially, in the privacy of marriage classes and tribunals, the slick, insinuating lies of heretical theologians are taught and acted upon.

Another thing is probable, too. It is most probable that the McHugh committee report was rushed into print this fall because the quiet process of perverting the diocesan tribunals of this Country was unexpectedly brought to a halt. During the summer Rome put an end to the scandalous "good conscience" procedures that were being employed in Baton Rouge and whose rationale was precisely identical to the McHugh position. About the same time, important, strongly-worded condemnations of these procedures were made in St. Louis, New York, and Philadelphia. Plainly, the progressivist forces had to fall back, re-group, and tell their followers what to think. That is why, most probably, the McHugh text was published the first week in October (prime time) in the far-reaching pages of *America* and not in some obscure review of canon law.

There are some further heresies in the document which McHugh signed, but after what we have

already seen, they are hardly worth bothering with. For instance, McHugh is anxious that the Blessed Sacrament should be desecrated by being handed out to public sinners stubbornly involved in hopelessly invalid unions. He writes: "If a couple decides after appropriate consultation, reflection and prayer (again the pretense!) that they are worthy to receive the Sacraments, their judgement should be respected." As if it were not damnation to receive the Eucharist while outside the state of grace; and as if it were not criminal, therefore, to give the

Eucharist to those who live in contradiction of the laws of Holy Church; and as if such people were suddenly to be trusted as judges in their own cases!

But enough. There is no excuse for the behavior of Msgr. McHugh. There is no possible reason why a man who has openly signed what he has signed should be allowed to have anything further to do with the Family Life Division, which exists to protect and foster the marriages of believers. **McHugh must be fired.** The Bishops of this Country, his employers, have no honorable alternative.