## Contents

List of plates	page xix
List of abbreviations	xxi
Preface and acknowledgments	xxv
1 Marriage as a sacrament	1
1.1 The development in retrospect	2
1.2 Holy matrimony before 1100	12
1.3 The seven sacraments	21
1.4 Marriage as one of the sacraments	28
1.5 Ecclesiastical jurisdiction	33
1.6 Concomitants of the sacramental doctrine	40
1.6.1 Indissolubility	41
1.6.2 Solus consensus	43
1.6.3 The impediments of relationship	51
1.7 Marriage as the sacrament of Christ and the church	53
1.7.1 Sacrament, sign, and figure	54
1.7.2 Figurative marriage	57
1.7.3 Ephesians 5:22-33 and its reception	62
1.7.3.1 Paul's argument	62
1.7.3.2 Patristic reception	65
1.7.3.3 Reception after 1100	68
1.7.4 The Sacramentum-res relation in argument	69
1.7.5 Conclusions and suggestions	81
1.8 The sacrament of marriage in imagination	84
1.8.1 Seven-sacrament cycles	86
1.8.2 The Vérard woodcut	87
1.8.3 Dextrarum iunctio	89

viii Contents

	1.8.4 Diagram of the spiritual journey of life	
	(BL Additional MS 37049)	93
	1.8.5 The role of the priest	95
	PART I AUGUSTINE	99
2	Marriage in Augustine's writings	101
	2.1 An overview of Augustine's theology of marriage	102
	2.2 The issues that occasioned Augustine's work on marriage	103
	2.2.1 The Manichees and the goodness of marriage	103
	2.2.2 Jovinian	107
	2.2.3 Pollentius	110
	2.2.4 Pelagianism and Julian of Eclanum	113
	2.3 The medieval reception of Augustine	117
3	Bonum prolis, bonum fidei: The utility of marriage	1 <b>2</b> C
	3.1 Bonum prolis: Procreation	120
	3.2 Bonum fidei: The remedy for concupiscence	125
	3.3 Summary: The story of marriage	132
4	Bonum sacramenti: The sanctity and insolubility of marriage	134
	4.1 Marriage as an amicable partnership	135
	4.2 The marriage of Mary and Joseph	139
	4.3 Bonum sacramenti	142
	4.3.1 The bond itself	143
	4.3.2 The law of divorce	148
	4.3.3 The bond as sacrament	150
	4.4 Marriage as a sacred sign	151
	PART II GETTING MARRIED: BETROTHAL, CONSENT, AND	
	CONSUMMATION	155
5	Betrothal and consent	157
	5.1 Traditional marriage	159
	5.1.1 The typical pattern	159
	5.1.2 Old Semitic marriage	162
	5.2 Betrothal and consent in Roman law	164
	5.2.1 The Roman betrothal	165
	5.2.2 The peculiarities of marriage in classical law	169
	5.2.3 Whose consent?	171
	5.2.4 Bare consent	173

Contents ix

	5.2.5 The law of betrothal in late antiquity	176
	5.2.6 Early-Christian betrothal	178
	5.3 The nuptial process in the early Middle Ages	181
	5.3.1 Marrying in Visigothic culture	183
	5.3.2 Marrying in Frankish culture	185
	5.3.3 Pope Nicholas I on marriage in the west	186
	5.4 Ivo of Chartres on consent and betrothal	188
	5.4.1 Consent to marry	189
	5.4.2 Betrothal as an impediment to marriage	191
	5.4.3 The betrothal of infants	194
	5.4.4 Betrothal as virtual marriage	197
	5.5 The emergence of the betrothal distinction	199
	5.5.1 Early forms of the betrothal distinction	200
	5.5.2 The distinction of tense	<b>2</b> 04
	5.5.3 The purpose of the betrothal distinction	206
6	Consummation	209
	6.1 The idea of consummation	210
	6.2 Origins of the coital proof texts	217
	6.2.1 The remote source: Pope Leo's reply to Rusticus	218
	6.2.2 The proximate source: Hincmar of Reims	222
	6.2.3 The derivation of the coital proof texts	230
	6.3 The coital proof texts in the Magistri moderni	231
	6.4 Gratian's theory	233
	6.4.1 The role of coitus in marrying	233
	6.4.2 The role of the nuptial blessing	239
	6.4.3 Gratian and consent	240
7	From competing theories to common doctrine in the twelfth century	244
	7.1 The terms of the scholarly debate (c.1150-c.1180)	249
	7.2 The consummation theory in the Bolognese tradition	250
	7.2.1 Decretists before Rufinus	250
	7.2.2 Rufinus and Johannes Faventinus	25
	7.3 The betrothal theory in French canon law	258
	7.3.1 The Summa Parisiensis and Stephen of Tournai	258
	7.3.2 Summa Coloniensis	260
	7.3.3 Marrying: Event or graduated process?	264
	7.4 The civilians' Deductio theory	266
	7.5 Vacarius's Traditio theory	268
	7.6 The common doctrine	278
	7.6.1 The decretals of Pope Alexander III	279

x Contents

	7.6.2 The Bolognese tradition after Alexander III:	
	Simon of Bisignano and Huguccio	283
	7.6.3 Summary of the common doctrine	286
	PART III THE TWELFTH CENTURY: ORIGINS AND EARLY	
	DEVELOPMENT OF THE SACRAMENTAL THEOLOGY	
	OF MARRIAGE	289
8	Introduction to the sentential literature on marriage	291
	8.1 The Sententiae	292
	8.1.1 A florilegium: The Liber Pancrisis	293
	8.1.2 Miscellanies	295
	8.1.3 The School of Laon?	298
	8.1.4 The sentential literature as literature	303
	8.2 The sentential literature on marriage	304
	8.2.1 Independent modern sentences	305
	8.2.2 Florilegia	306
	8.2.2.1 Sententiae Magistri A	306
	8.2.2.2 In primis hominibus	307
	8.2.3 Treatises	308
	8.2.3.1 De coniugiis tractantibus	309
	8.2.3.2 Cum omnia sacramenta	310
	8.2.3.3 The In primis hominibus group	313
	8.2.3.4 Other treatises	313
	8.2.4 Traits of the literature	314
	Appendix: Sources cited	315
9	The theology of marriage in the Sententiae	317
	9.1 The regulation of marriage in the sentential literature	317
	9.1.1 Impediments and other grounds for divorce	317
	9.1.2 Variations across time and place	322
	9.1.3 The power to dissolve	325
	9.1.4 Summary: The power of the church	3 <b>2</b> 7
	9.2 Consent	3 <del>2</del> 7
	9.3 Reasons and benefits	331
	9.3.1 The goods of marriage	332
	9.3.2 Procreation as a reason for marriage	334
	9.3.3 Malady and remedy	336
	9.4 The sacred history of marriage	338
	9.4.1 Office and remedy as successive institutions	339
	9.4.2 Laws as successive institutions	339
	9.4.3 De coniugiis tractantibus	341
	O A A Cum omnia sacramenta I	2/12

Contents xi

	9.4.5 Coniugium namque	345
	9.4.6 In coniugio figura	346
	9.4.7 Summary	347
	9.5 Marriage in the church	347
	9.5.1 The sacramentality of marriage	347
	9.5.2 Marriage outside the church	350
	9.5.3 Christian marriage in the Cum omnia sacramenta family	
	of treatises	356
	9.6 Summary	361
10	Hugh of Saint-Victor	362
	10.1 Hugh's character as a theologian	363
	10.2 Hugh's sacramental theology	366
	10.2.1 The sacraments and the work of restoration	367
	10.2.2 What is a sacrament?	371
	10.2.3 Divisions of the sacraments	373
	10.3 The role of the clergy	376
	10.3.1 Political theology: The two powers	376
	10.3.2 Celibacy	377
	10.4 Hugh's treatise on Mary's virginity	379
	10.4.1 The problem	380
	10.4.2 The solution: A theology of marriage	381
	10.4.3 Virginal conception	383
	10.4.4 The appendix: Marriage and gender	3 <sup>8</sup> 4
	10.4.5 Influences and precedents	386
	10.4.6 Hugh's reasoning	387
	10.5 The theology of marriage in the De sacramentis	387
	10.5.1 Marriage in sacred history	388
	10.5.2 Marital consent and the essence of marriage	389
	10.5.3 The sacramentality of marriage	391
	10.5.4 Office, remedy, and underlying essence	392
	10.5.5 The inward sanctity of marriage	394
	10.6 The authority of the clergy	398
	10.6.1 Clandestine marriage and the principle of Solus consensus	398
	10.6.2 Impediments and the power to dissolve	400
	10.6.3 The excuse of ignorance	402
	10.7 Conclusion	403
11	The early doctrine of marriage as one of the sacraments	405
	11.1 Peter Abelard's circle	405
	11.2 Master Simon and his followers	408
	11.3 Walter of Mortagne	413
	11.3.1 Marital consent	414

## Contents

	11.3.2 The reasons for marrying	416
	11.3.3 Sexual ethics	417
	11.4 Peter Lombard	419
	11.4.1 The sacraments of the New Law	420
	11.4.2 Circumcision and marriage as exceptions	421
	11.4.3 The treatise on marriage (Book IV, Distinctions 26–42)	422
	11.4.4 The sacred history and institutions of marriage	425
	11.4.5 The definition of marriage	426
	11.4.6 The betrothal distinction	426
	11.4.7 The object of consent	428
	11.4.8 Reasons and benefits	429
	11.4.9 The conjugal goods and the marriage among unbelievers	430
	11.4.10 Marriage as one of the sacraments	431
	11.4.11 Substance, solemnity, and clandestinity	434
	11.5 After Peter Lombard	436
	11.5.1 Topics	438
	11.5.2 Marriage as a sacred sign	441
	11.5.3 Sacramental efficacy and the preventive model	443
	11.5.4 Conjugal virtue and chastity	444
	11.6 The contributions of canon law	445
	11.6.1 The marriage of unfree persons	445
	11.6.2 Marriage and the natural law	451
	11.6.3 Rufinus and Huguccio on marriage as a sacrament	455
	PART IV THE THIRTEENTH AND FOURTEENTH CENTURIES:	
	DEVELOPMENT OF THE CLASSICAL DOCTRINE	459
12	Marriage as union	461
	12.1 Introduction to Part IV	461
	12.1.1 Phases and literature	461
	12.1.1.1 The period of exploration	462
	12.1.1.2 The period of elaboration	464
	12.1.1.3 The period of consolidation and new controversy	470
	12.1.2 The law of marriage	471
	12.2 Marriage as the union of a man and a woman	477
	12.2.1 What is marriage?	478
	12.2.1.1 Definitions of marriage	478
	12.2.1.2 The ambiguity of coniunctio	483
	12.2.2 The etiology of marriage	485
	12.2.2.1 The reasons for marriage and marrying	486
	12.2.2.2 The Aristotelian division of causes	487
	12.2.2.3 The efficient cause: Consent	490

	12.2.3 The ontology of marriage	495
	12.2.4 Marriage and nature	503
	12.2.4.1 William of Auxerre on monogamy in the Natural Law	504
	12.2.4.2 William of Auvergne: Marriage as the natural	
	convergence of the sexes	506
	12.2.4.3 Marriage as a divinely instituted union	511
13	Scholastic sexual ethics	515
	13.1 The basis in Augustine	516
	13.2 The ends of sexual intercourse	520
	13.3 The pleasure problem	531
	13.3.1 Historical background to the problem	531
	13.3.2 Robert Courson's moral particles	534
	13.3.3 William of Auxerre's divided-self theory	536
	13.3.4 William of Auvergne's moral exchange theory	540
	13.3.5 Sexual pleasure in Eden	543
	13.4 Excusatio coitus	545
14	Marriage as a sacrament	556
	14.1 The theological task	556
	14.2 Marriage as a sacred sign	559
	14.3 The privilege of religion	561
	14.3.1 The double analogy rationale	562
	14.3.2 The spiritual death rationale	569
	14.3.3 Formal explanations	572
	14.4 The sacrament of marriage and the good of sacrament	574
	14.5 Institutions and sacred history	578
	14.6 Marriage as one of the seven sacraments	588
	14.6.1 The parsing of marriage	588
	14.6.1.1 Form and matter	588
	14.6.1.2 Tripartite analysis	589
	14.6.2 Objections and solutions	592
	14.7 Clandestine marriage	599
	14.8 Voices of dissent: Olivi and Durandus	605
	14.8.1 Univocity, equivocity, and semantic zones	605
	14.8.2 Peter John Olivi	608
	14.8.3 Durandus of Saint-Pourçain	617
	14.8.4 Paludanus's refutation of Durandus	621
15	The question of grace	623
	15.1 The preventive model	623
	15.2 The discourse on sacramental efficacy	628

xiv Contents

	15.2.1 Preternatural grace	629
	15.2.2 Objective and subjective efficacy	630
	15.2.3 The efficacy of circumcision	635
	15.2.4 Theories of sacramental causality	640
	15.3 Theories of conjugal grace	641
	15.3.1 Alexander of Hales	641
	15.3.1.1 Glossa in librum quartum Sententiarum	642
	15.3.1.2 Quaestiones disputatae antequam esset frater	645
	15.3.2 William of Auvergne	646
	15.3.3 Albertus Magnus	648
	15.3.4 Bonaventure	651
	15.3.5 Thomas Aquinas	657
	15.3.6 Peter of Tarentaise	661
	15.3.7 Richard de Mediavilla	662
	15.3.8 Durandus of Saint-Pourçain	663
	15.3.9 Peter of La Palu	665
16	Human contract and divine sacrament	667
	16.1 Believers, unbelievers, and the bond of marriage	667
	16.2 Blessed and unblessed marriages	675
	16.3 The divine and human dimensions of marriage	676
	16.4 Albertus Magnus on the Officium naturae	682
	16.5 Thomas Aquinas on marriage in law	686
	16.5.1 The theory of laws in the Scriptum	687
	16.5.2 The ends of marriage	695
	16.5.3 Marriage and the multiplicity of law	698
	16.5.4 The office of nature	701
	16.5.5 Polygyny, proper actions, and instrumental teleology	702
	16.5.6 The church's legislative power over marriage	708
	16.6 Constructive rationales for marriage as a sacrament	715
	16.6.1 Thomas Aquinas's rationale	715
	16.6.2 John Duns Scotus's rationale	717
	16.7 The separability of the contract from the sacrament	719
	16.7.1 Scotus and the Scotists	720
	16.7.2 Thomas de Vio Cajetan, O.P.	722
	16.7.3 Melchor Cano, O.P.	7 <del>2</del> 3
	PART V THE COUNCIL OF TRENT	725
17	On the eve of the general council	727
	17.1 From implicit faith to explicit dogma	728
	17.2 Desiderius Erasmus	730

Contents xv

	17.2.1 The estate of marriage	731
	17.2.2 Divorce	731
	17.2.3 Marriage as a sacrament	732
	17.2.4 What is the great sacrament (Eph 5:32)?	736
	17.2.5 Clandestinity and parental consent	740
	17.3 Martin Luther	742
	17.3.1 Prelude on the Babylonian Captivity of the Church	743
	17.3.2 Vom ehelichen Leben	743
	17.3.3 Marriage and sacramental theology	744
	17.3.4 Marriage and celibacy	748
	17.3.5 Marriage as a worldly thing	749
	17.3.6 Marriage as a godly thing	751
	17.4 King Henry VIII's refutation of Luther	755
	17.5 Johann Gropper	759
	17.5.1 The treatise on marriage in the Enchiridion	76c
	17.5.2 Marriage as one of the sacraments	761
	17.5.3 The composition of the sacrament	765
	17.5.4 Solemnity and clandestinity	767
	17.6 Solemnity, clandestinity, and reform	772
	17.6.1 The ideology of marriage and the dream of order	772
	17.6.2 The pastoral problem of clandestine marriages	777
	17.6.3 Bishop Giberti's reforms	783
	17.6.4 The ritual tendency: "Ego vos coniungo"	786
	17.7 Dominic de Soto	788
	17.7.1 Marriage as one of the sacraments	789
	17.7.2 The nuptial blessing and the sacramental form	796
	17.7.3 The problem of clandestine marriages	798
	17.8 The Catholic agenda on the eve of the general council	800
18	The sacrament of marriage at Bologna and Trent	804
	18.1 Procedures	804
	18.2 Bologna, 1547	800
	18.2.1 The doctrine of the sacraments in general (Trent,	
	Session VII)	800
	18.2.2 Theologi minores	810
	18.2.3 Particular and general congregations	812
	18.3 Ambrosius Catharinus on the sacrament of marriage	817
	18.3.1 Marriage as a sacrament	818
	18.3.2 The composition of the sacrament: Matter, form,	
	and minister	820
	18.3.3 The sacramental history of marriage	823
	18.3.4 Indissolubility and sacramentality	826
	18.3.5 Summary	83:

xvi Contents

	18.4 Trent, 1563	832
	18.4.1 Theologi minores	833
	18.4.2 The general congregations	839
	18.4.2.1 The four drafts	839
	18.4.2.2 The doctrinal preface	840
	18.4.2.3 Marriage as a sacrament (canon 1)	842
	18.4.2.4 Ecclesiastical jurisdiction	844
	18.5 Decree on the sacrament of marriage (Session XXIV)	845
19	Clandestine marriage: Bologna, 1547	848
	19.1 The rules of the game	848
	19.2 Preliminary discussion by the Theologi minores,	•
	April 26 through May 7	853
	19.3 General congregations on clandestinity and divorce,	
	August 29 through September 6	855
	19.4 General congregations on the doctrine of marriage,	
	September 9–24	859
	19.5 Dogma or reform? The particular congregations of	
	October 12 and 14	865
	19.6 Revision of the canons: The particular congregations of	
	October through November	871
	19.7 General congregations on abuses and remedies,	
	November 29 through December 25	872
	19.8 Summary	881
	19.9 After Bologna: Retrospective treatises on clandestine marriage	882
	19.9.1 Giovanni Antonio Delfini	883
	19.9.2 Ambrosius Catharinus	886
	19.9.3 Gentian Hervet	893
20	Clandestine marriage: Trent, 1563	896
	20.1 An overview of the issues	898
	20.2 Marriage and the Christian commonwealth	902
	20.2.1 The argument in outline	902
	20.2.2 Presuppositions	903
	20.2.3 Adrian Florensz	907
	20.2.4 Ruard Tapper	908
	20.3 Theologi minores	915
	20.4 The first draft	922
	20.5 The second draft	940
	20.6 Archbishop Pedro Guerrero on clandestine marriage	951
	20.6.1 The treatise	952
	20 6.2 Guerrero's intentions and methods	054

Contents	xvii
	0
20.6.3 The five-step argument	958
20.6.4 Guerrero's theory of laws	964
20.7 The third draft	968
20.8 The fourth draft and session XXIV	974
20.9 The meaning of Tametsi	977
Bibliography	983
ndex	1041