PROCEEDINGS IN CASES "SUPER RATO"

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A. THE POPE'S VICARIOUS POWER

DISSOLUBILITY OF MARRIAGE POSSIBLE

There are two essential properties of marriage, namely unity and indissolubility. Marriage is by divine law, natural and positive, monogamous and indissoluble. Though both unity and indissolubility are essential properties of any valid marriage, there is a great difference between the two in regard to dispensation. Unity does not admit of any exception, while indissolubility does. The reason is that unity belongs to the primary precepts of the natural law, wherein no exception is possible, while indissolubility belongs to its secondary precepts and admits of exceptions. That is why the Jews were allowed in the Old Testament to dissolve marriage through the use of the bill of divorce. In no instance, however, was the law of monogamy relaxed.

Even Christian marriage, which enjoys a special firmness and stability because of its sacramentality, is susceptible to dissolution as long as it is not a ratified and consummated marriage and there is a serious reason requiring its dissolution. It should be noted carefully, however, that a ratified and consummated marriage cannot in any way be dissolved. Only death may put an end to it. An absolutely indissoluble marriage should have these two elements and precisely in this order, namely sacramentality first and then consummation, not conversely. The following Christian marriages, therefore, can be dissolved, if a serious cause exists:

a) a marriage which has been contracted by two baptized Catholics or non Catholics, but which has not been consummated;

b) a marriage which has been contracted by a Christian and a pagan who has been baptized after the celebration of marriage, but which has not been consummated after the baptism of the latter;

c) a marriage which has been contracted between two pagans who after their marriage were both baptized, but who have not consummated their marriage after their baptism.

In order, therefore, that the foregoing marriages be dissoluble, consummation should not have taken place after such marriages have become sacraments, i.e., after both spouses are baptized. If consummation preceded the baptism of either party, such a consummation does not make the marriage absolutely indissoluble. To be such, the marriage has first to be a sacrament and then be consummated, not conversely.

The threefold non-consummated marriage between two baptized, as enumerated above, is dissolved in two ways, namely by the very law through solemn religious profession and by particular dispensation of the Roman Pontiff granted for a just cause at the request of the two parties or even only one against the will of the other. It is not our purpose to deal with the first way of dissolving a merely ratified marriage, but only to study the second, especially in regard to the new norms contained in the Instruction **Dispensationis matrimonii** issued by the Holy See on March 7, 1972. We shall see therefore how a non-consummated Christian marriage may be dissolved by the Roman Pontiff and then we shall comment on the procedure to be followed in order to obtain the dispensation, taking into account the new rules issued by the Holy See on the matter.

VICARIOUS POWER OF THE POPE

That the Roman Pontiff is vested with the power to dissolve valid marriages other than a ratified and consummated one is beyond any doubt. The constant practice of this power throughout the centuries, the official pronouncement of the magisterium and the common opinion of theologians and canonists are evident proofs of the existence of this power in the Church. The use of this vicarious power can be traced back to Alexander III (1159-1181). Later on, Innocent III (1160-1218), and in the XV century Martin V and Eugene IV used this power, its use becoming more frequent in the XVI and following centuries. The Codex states that "the non-consummated marriage between two baptized by the very fact of solemn marriage between two baptized or between one baptized and one unbaptized, is dissolved by the very fact of solemn religious profession, and also by dispensation of the Holy See, granted for a just cause at the request of the two parties or even of one of them against the wish of the other".[1]

The vicarious power to dissolve valid marriages belongs to the Supreme Pontiff as a personal prerogagtive, as Vicar of Christ, not as

[1] Canon 1119.

Head of the eclesiastical community. In other words, this power is not a proper and connatural power enjoyed by the Church as a perfect society, but a most special an singular power conferred upon the Pope as God's representative here on earth. The first known official pronouncement on this matter pointing to this exclusive prerogative of the Roman Pontiff by divine law, was made by Innocent III, when he said: "There is no doubt that the Almighty God . . . reserved the dissolution of the marital union, existing between a man and a woman, only to the judgment of the Roman Pontiff."[2] The Sacred Congregation for the Oriental Church affirms the exclusive prerogative of the Pope by divine law when she says that "Only the Roman Pontiff was divinely granted the power of dispensing the parties from a marriage ratified and non-consummated."[3] The post-Conciliar Motu Proprio De Episcoporum muneribus, issued by Paul VI on June 15, 1966, points out also that the vicarious power is a prerogative of the Roman Pontiff. It states that "the Supreme Pontiff alone may dispense, when using the vicarious power, from the divine laws, natural and positive, as it happens in dispensing from a ratified and non-consummated marriage, on matters related to the privilege of faith and others."[4]

When exercised, the primary active subject of the vicarious power is God Himself, the Roman Pontiff being only its secondary active subject. The Pope's role in the use of the vicarious power is merely instrumental or ministerial. He does not act in his own name but in God's name. That is why this power is called the Pope's vicarious power as contrasted with his proper power in ruling the Church. Both are attached to his supreme office, but while the latter is exercised by Him as Head of the Church, the former is exercised in God's name, as His Vicar.

Along the foregoing difference between the proper and vicarious power existing in the Church, the proper power would properly be called ecclesiastical, as connatural to the social structure of the Church. It belongs to her as perfect society and without it the Church cannot guide her members to attain their common and individual end, namely their sanctification and final salvation. Its exercise, therefore, is restricted to the limits of her social jurisdiction, i.e., her laws. The vicarious power, however, is divine and supernatural, not belonging to her as a perfect society. Without it the Church could perfectly achieve her salvific mission. It was given to her for the welfare of souls in individual cases. Its exercise surpasses the limits of her own laws, and enters the sphere ruled by the divine law. That is why we have said before that though the proper

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[2] C. 2, X, 7, 1, 7.

[3] S.C. pro Eccl. Orient. Instruction Quo facilius, June 10, 1935; AAS., XXVII, 1935, p. 334. The same words appear in the revision made on the Instruction Quo facilius, updating the ecclesiastical discipline of the Oriental Church, on July 13, 1953.

[4] AAS., 58, 1966, pp. 467-472, n.V.

and vicarious power of the Church are jurisdictional in nature, the former is ecclesiastical, the latter is divine.

The exercise of the vicarious power on matrimonial matters is shown in the dispensation from the divine law of indissolubility of marriage. It is of common knowledge that any valid marriage is indissoluble by divine law, natural and positive. Only God, Author of this law, can dispense anyone from its implementation. He can relax His own law either through His personal intervention or through somebody delegated by Him. Usually, God does not show his personal intervention in relaxing His laws, but He does show His will through His representative, the Church established by Him to continue His divine mission here on earth. He endowed her with full power when He said to Peter: "All that you bind on earth shall be bound in heaven, and all that you loose on earth shall be loosed in Heaven" (Matth. XVI, 9). "This power is so ample an effective," says Leo XIII, "that all her actuations will be ratified by God".[5]

REQUIREMENTS TO DISSOLVE A RATIFIED MARRIAGE

Does the foregoing mean that the Pope can relax the law of indissolubility at his will? Certainly no. Two facts are to be established beyond any reasonable doubt before a dispensation from a merely ratified marriage be granted by the Roman Pontiff: the non-consummation of the marriage and the existence of a just or proportionately grave cause. All concerned should be told, says the S. Congregation,[6] that the validity of the dispensation is based on the non-consummation of marriage and the existence of a just or proportionately grave cause. Either of the two wanting, the dispensation given would be invalid. A subsequent marriage entered into because a previous one was dissolved on the false assumption that these two facts existed, can be declared null and void because of the invalid dispensation granted.

NON-CONSUMMATION

The Codex states that a marriage is ratified and consummated "when between the spouses has taken place the physical act which the marriage contract has in view, and by which the parties become one flesh."[7] On the other hand, the object of the marriage contract is pointed out in canon 1081, par. 2, as the "acts suitable by themselves for the procreation of children". A marriage, therefore, is consummated when the marital

[5] Acta Leonis XIII, V. p. 189.
[6] Instr. Dispensationis matrimonii, March 7, 1972; AAS, 64, 1972, pp. 244-252, I, f).
[7] Canon 1015, par. 1.

act has taken place in the right manner. If after the celebration of marriage the parties have lived together, "the marriage is supposed in law to be consummated until the contrary is proved".[8] This is, of course, only a legal presumption which will yield to contrary proof. The rules given by the Sacred Congregation of the Sacraments on May 7, 1923[9] should be followed in order to prove the non-consummation of the marriage, as long as they are not contrary to the ones given in the recent Instruction **Dispensationis matrimonii.**

The fact of non-consummation of marriage can be established in two different ways, namely **a priori** by showing that the spouses could not consummate their marriage after its celebration; or **a posteriori,** by corporal inspection of the spouses or spouse and by the sworn testimony of the parties, confirmed by the witnesses and other documents that might throw light on the fact of non-consummation of the marriage.[10] The concordant confession of both spouses on the non-consummation has a special value. The nature of the fact is such that it is primarily and directly known to them and through them to others.[11] This moral argument drawn from the sworn testimony of the spouses cannot be resorted to when there is a discrepancy between them with regard to the non-consummation, specially if the wife is not trustworthy.[12]

The proof of non-consummation need not be thoroughly established in all the above-mentioned ways. The defect in one way may be supplied by the sufficiency of arguments afforded by the other. Moral certainty achieved from accessory information will make the process useful and valid. The Congregation points out that the non-consummation of the marriage usually takes place when there has been a defect in the matrimonial consent, when marriage has been entered into under force or intimidation, when from the very beginning of the married life aversion of hatred between the spouses has existed, and when there is impotency, either absolute or relative.[13]

A JUST CAUSE

If the Roman Pontiff, in using the vicarious power, acts in God's name as His Vicar, he may dispense from the law of indissolubility only when God is supposed to relax such a law. Now, God is supposed to relax the law of indissolubility when a good greater than the one in-

[8] Ibid., par. 2.
[9] AAS. 15, 1923, pp. 389, ff.
[10] S. Congr. of Sacraments, Regulae servandae, cap. IV, n. 20; S.R. Rota, August 11, 1931, n. 4.
[11] S.R. Rota, July 16, n. 14.
[12] Ibid. August 11, 1931, n. 11.
[13] S. Congr. of Sacraments, Decree of May 7, 1923, cap. XII, n. 30.

volved in an indissoluble marriage can be achieved. This greater good is no other than the welfare of souls. The Pope therefore may grant a dispensation from the law of indissolubility when the spiritual welfare of the spouses is imperilled by maintaining their marriage indissoluble. Such a situation is a just cause[14] for relaxing the law of indissobility. God is supposed to relax it in order to achieve the salvation of the souls involved.

A dispensation, however, without such a just cause would be not only unlawful but also invalid[15], since it would be a dispensation from a law issued by God Himself, not by the Pope. To judge whether the reason alleged for a dispensation is strong enough or not to grant the favor belongs exclusively to the Roman Pontiff, This does not mean that, a just cause existing, the petitioner has a right to be dispensed from the law of indissolubility of his marriage. The papal concession of the favor is entirely gracious, to which no married person is entitled to. The dissolution of a valid marriage is an exception to the law of indissolubility, to which nobody may claim a right.[16]

The following causes are considered as just causes for a dispensation super rato et non consummato: impotency or a serious illness posterior to the celebration of marriage which impedes the use of the marriage; deep hatred of the spouses without any hope of possible reconciliation; an attempted second marriage by one of the spouses with a third party; civil divorce obtained by one of the spouses; probable antecendent impotency which, not being entirely proved, is insufficient to declare the marriage null and void; probable lack of sufficient consent to the marriage or probable existence of a diriment impediment; danger of incontinence, due to excessive procrastination of consummation on the part of one spouse; danger of perversion in one spouse's faith in cohabiting with the other party.

A question may be raised in this respect: Can this vicarious power of the Pope be delegated to others? Some writers hold that such a power, though susceptible to delegation, has never been delegated. Others believe that the ministerial power has actually been delegated in some instances. Finally, others hold the opinion that this power is of such a nature that it cannot be delegated. The last opinion seems to be the most acceptable, and we adhere to it.

A distinction should be made between the power to grant the dispensation and the power to verify whether the conditions required to grant the dispensation exist. The power to grant the dispensation from the law

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[14] The Instruction Dispensationis Matrimonii asks for a "just and proportionately grave cause", in order to justify a dispensation. [I,a), c), f)]

[15] S.R. Rota, March 20, 1926, n.17.

[16] Bender, Prael. Iuris Matrim., 1950, p.490.

of indissolubility of marriage is a personal prerogative enjoyed by the Roman Pontiff as Vicar of Christ, and cannot be delegated. The power, however, to institute the informative process in order to find out whether the essential requirements for the dispensation exist or not, can be delegated and usually is delegated.

The cases mentioned by the authors of the second opinion do not imply a real delegation of the vicarious power itself, but the verification of the existence of the conditions required for a valid dispensation, or at the most, its execution. The alleged **delegated persons** were commissioned only to verify the existence of the conditions required for the dispensation by the Roman Pontiff. Once those conditions had been found as fulfilled, the dispensation granted by the Pope was executed by them. Hence, the actual concession of the favor was granted by the Roman Pontiff himself, not by the persons delegated.

The dispensation of the law of indissolubility in the case of a merely ratified marriage may be granted only when two requirements are fulfilled, namely the non-consummation of the marriage and the existence of a just cause. These two factors are indispensable for the validity of the dispensation. Now, how can the Roman Pontiff know that these two requirements are present for the dispensation? Obviously through an informative process which will engender at least moral certainty as to their existence. This process is, by commission of the Holy See, to be instituted by the diocesan Bishop of the parties concerned. The Bishop can do it through his diocesan tribunal, through the tribunal of the nearer diocese, or through the regional one operating for the entire ecclesiastical province.

On May 7, 1923, the Sacred Congregation for the Discipline of the Saraments issued the Decree **Catholica Doctrina**[17] on the process to be made in cases **super rato et non-consummato**. On March 27, 1929, the same Congregation issued another supplementary document[18] on some precautions to be taken in order to avoid fraud by the parties and others in the trial of these cases. Finally, on March 7, 1972, a new Instruction has been issued by the same Congregation on certain changes to be introduced in the norms to be followed in these trials **super rato**. We shall limit our comment on the main points of this new Instruction.

B. THE INSTRUCTION "DISPENSATIONIS MATRIMONII"

In the short introduction of the document, it is explained that the Instruction has been given in consideration of the increasing number of

[17] AAS., XV 1923, pp. 389-436.
[18] AAS., XXI, 1923, p. 490.

petitions for a dispensation **super rato et non consummato.** This asks for some changes in the process in order to expedite the study of the cases wherein a dispensation is possible. The Instruction is divided into three parts. The first part deals with **The General Faculty to Institute the Process on a Ratified Non-consummated Marriage;** the second one with **The Drawing up of the Case and Drawing up of the Acts;** finally the third part deals with **Some Clauses that May Be Found in the Rescript,** when the favor is granted.

GENERAL FACULTY

Canon 1963, par. 1, states that "no inferior judge can institute the process in cases of dispensation **super rato,** unless the Holy See grants him such a faculty". In Canon 259, par. 3, it is prescribed that "it belongs to the exclusive competence of the Sacred Congregation of the Sacraments to institute a process on the consummation of marriage and the existence of cause in order to grant a dispensation", which is confirmed by the Const. **Regimini Ecclesiae Universae** on the reform of the Roman Curia (III, c. IV, n. 56).

Notwithstanding the foregoing prescriptions, the new Instruction states that "by its virtue all diocesan Bishops are granted the general faculty to institute the process on a ratified non-consummated marriage in their respective territory". There is no need to ask permission from the Holy See as before. This faculty is given them until the new Codex will be promulgated. The Instruction reminds the Bishops of the prescriptions contained in articles 7 and 8 of the Norms given by the Sacred Congregation on May 7, 1923. Art 7 points out the right of the faithful to send their petition to the Holy See, although they should be advised to send it through their local Ordinary, who will add his votum to the the petition. Art. 8 says that, for this matter, the proper Ordinary is the Bishop of the place wherein the marriage was celebrated or where the petitioner has his domicile or quasi-domicile or, when the spouses are illegitimately separated, where the other party has domicile or quasi-domicile. However, the petitioner can bring the case to the Ordinary of his present residence, especially if the majority of the witnesses live there.

It should be noted that the faculty to institute the process is granted to the diocesan or residential Bishops and those regarded in law as their equals, namely the Apostolic Vicars and Prefects, Apostolic Administrators permanently constituted, Abbots and Prelates **nullius.** The Coadjutor and Auxiliary Bishops, Apostolic Administrators not permanently constituted, General Vicars, Capitular Vicars, Episcopal Vicars, and Delegated Vicars are not empowered to institute these processes. Even the Matri-

monial Tribunals are not given the faculty to accept and discuss these cases super rato. They need to be delegated in order to institute the process.

In the causes of non-consummation, there is no judicial trial. It is an administrative process, the purpose of which is to find out whether the favor of dispensation super rato might conveniently be given by the Roman Pontiff or not. Hence, there is no plaintiff, but only a petitioner.

The purpose of the process is to gather the sufficient proof of the non-consummation of marriage and of the existence of a just or proportionately grave cause to grant the favor. In case the proofs are not enough, the Ordinaries may be asked to supplement with others. The dispensation may be asked for only by both parties or by any of them even against the other's wish. The fact of non-consummation of the marriage and the reasons why the dispensation super rato is requested should be clearly stated in the bill of petition, addressed to the Holy Father.

Although the petition can be sent directly to the Sacred Congregation, addressed to the Holy Father, it is more expedient to direct it to the local Ordinary, who can immediately start the process if he deems it convenient. When only one of the spouses requests for the dispensation, the other party should also be heard before starting the trial, unless it would seem to be more proper to do otherwise.

Before starting the proceedings, the Bishop should see whether there is a juridical ground and convenience for the petition. Likewise, every effort should be made to reconcile the parties, unless to do so would seem to be futile and useless.

Cases of non-consummation that involve special difficulty of a juridical or moral nature should be referred to the S. Congregation of the Sacraments, which will study the case an instruct the Bishop what to do.

When a prudent doubt on the validity of marriage itself comes out from the petition for a dispensation of a ratified non-consummated marriage, the Bishop can advise the petitioner to ask for declaration of nullity in the usual judicial way[19] or allow to draw up the process on a ratified and non-consummated marriage, if there is a juridical ground for it.

Sometimes during the trial for the nullity of a marriage on the ground of impotency, it is discovered that instead of impotency the non-consum-

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[19] When the impotency of one spouse rendering the marriage invalid, has been sufficiently proved, there is no room for the dispensation of super rato which implies the marriage validity (S.R. Rota, Oct. 27, 1929, n.15).

mation of the marriage exists. In such a case, if the party or parties ask for a dispensation **super rato et non-consummato**, the acts of the process with the comments of the Defender of the Bond and the votum of the Tribunal and the Bishop based on the law and on the facts should be sent to the Sacred Congregation, who will study the case. As to the votum of the Bishop, he can endorse the same Tribunal's votum, as long as the existence of a just or proportionately grave cause for the dispensation and the absence of scandal of the faithful can be clearly established.

If the proofs gathered on non-consummation are not sufficient according to the Norms given on May 7, 1923, in the judgment of the Tribunal, the trial should be finished by the Instructor Judge and all the acts with the comments of the Defender of the Bond and the votum of the Tribunal and the Bishop should be sent to the Sacred Congregation.

When the nullity of marriage is discusssed in a trial on some other grounds, as lack of consent, violence, and fear, and in the judgment of the Tribunal there is no certainty of its nullity, but incidentally there appears a probable doubt on the non-consummation of marriage, the party or parties may request the Pope for a dispensation super rato et non-consummato and the Instructor Judge can immediately institute the process according to the Norms above-mentioned. Once the trial is finished, the acts, the comments of the Defender of the Bond, and the votum of both the Tribunal and the Bishop should be sent to Rome, as stated before.

The Bishop should take care in preventing the parties, witnesses, and experts from deposing false testimonies or hiding the truth. All concerned should be told that the validity of dispensation is based on the non-consummation of marriage and the existence of a just or proportionately grave cause. Either of these two requirements wanting, the favor granted would be invalid and a subsequent marriage of the parties could be declared null and void.

PROCEEDINGS AND ACTS

As regards to the **institution of the process**, some changes have been made. There is only one Instructor Judge in the tribunal. The Defender of the Bond should also be present during the process, as well as the Notary who will write down the acts of the trial. The Bishop of a diocese which is small or where there is a scarcity of priests familiar with Canon Law, due to which the process **super rato et non consummato** can hardly be instituted in his Curia or Tribunal, may transfer the case either to the nearby diocesan tribunal, or to the interdiocesan or regional one operating in the place.

In cases of non-consummation, both spouses must substantiate the alleged non-consummation of their marriage with sworn affidavits stating the fact. Besides they must present witnesses who can testify on their probity and sincerity regarding the non-consummation of their marriage There is no mention of the so-called "septimae manus" witnesses in the new Instruction. The Instructor Judge may add ex-officio other witnesses to those presented by the parties. A few witnesses are enough as long as a valid proof and moral certainty can be drawn from their unanimous testimony. This is usually achieved when the witnesses, being exceptionably reliable, strongly agree under oath on the information they have obtained from the parties or their relatives about the non-consummation of marriage, pointing out when and how they were told about it. Moral inference will be given due value in these cases as a source of moral certainty on the non-consummation.

The Instruction **Dispensationis matrimonii** does not mention the precautions to be taken in order to avoid fraud by the parties or others during the process **super rato et non-consummato.** The Decree issued by the S. Congregation of the Sacraments on March 27, 1929 on this matter should, therefore, be borne in mind, most especially when the process is instituted in a place other than the diocese of the parties, as allowed by the present Instruction, II, a.). Sometimes a virgin is fraudulently substituted for a woman whose virginity is lost or a normal man is maliciously substituted for one who is impotent. The measures to be employed in identifying the parties are enumerated in this Decree of March 27, 1929.

The spouses' corporal inspection should be performed when it is necessary to show the juridical proof of the non-consummation. It should be done, in case of the wife, by medical experts or midwives or at least skillful women designated by the Bishop. It can be omitted, however, when in accordance with the Decree of the Holy Office, June 12, 1942,[20] considering the moral integrity of the parties and witnesses and their own attitudes, as well as all arguments and circumstances, there is, in the Bishop's judgment, a full proof of the non-consummation. Its dispensation, however, should be reasonable beyond any doubt. Said physical examination should not be urged when the woman refuses to submit herself to it. The Episcopal Conferences may state more ample executory norms on this examination, in accordance with the circumstances of the place.

The acts of the process should be written down and safely kept by the Notary. A tape-recorder can be used, with the permission of the Bishop.

[20] S. Congregation of the Holy Office, Decr. Qua singulari cura, June 12, 1942: AAS., 34, 1942, p. 200.

whenever it can help in taking the testimony of the parties and witnesses, and in writing more accurately the acts of the process. However, only the acts written in accordance with the prescriptions of the law will be considered reliable and legal.

No advocate or procurator is admitted in the process on non-consummation. An innovation, however, is introduced by the new Instruction. The Bishop may allow, or may ex-officio prescribe that the help of experts or advisers, especially ecclesiastical, be used in drafting the petition for the dispensation, in helping during the process or in completing the acts of the process so that, the truth of non-consummation being established, the welfare of souls may be better provided for. It belongs to the Bishop alone, after hearing the Defender of the Bond, to designate the experts or advisers and instruct them, through a peculiar decree, about the secret to be kept under oath with regards to the acts of the process.

In the process on non-consummation, the judge does not make known its results nor give any decision on the case. He merely forwards the acts of the process to the Sacred Congregation, together with his votum on the case. In drafting his opinion or votum, the Bishop must consider the nature and merits of the case in a **concrete and practical manner**, i.e., he should consider all peculiar circumstances of the persons and those of the non-consummation, as well as the advisibility and prudence in granting the favor requested.

The Instr. **Dispensationis matrimonii** of March 7, 1972, does not mention the votum of the Defender of the Bond. The Norms of May 7, 1923 required his votum to be sent with that of the Bishop.[21] We believe that such a requirement is still valid.

In cases of nullity of the marriage, the acts of which should be sent to the Sacred Congregation for the dispensation, and in cases of non-consummation, which are to be discussed by a tribunal other than the diocesan of the parties, the Ordinary of the Tribunal's see, in making his judgment on the case, should confer with the Bishop of the parties, who, knowing better the conditions of their place, can foresee any possible scandal to be originated from the dispensation. Any unreasonable scandal should be avoided or repressed in the best possible way.

All acts of both the cause and the processs[22] as well as other documents can be written either in latin or a commonly known vernacular

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[21] S. Congr. of Sacraments, Norms, May 7, 1923, n. 98, par. 2.

[22] Canon 1642, par. 1 states that "all judicial acts should be written down, both the acts of the cause, which refer to the merits of the case, for instance the sentence and all kinds of proofs; and the acts of the process, which refer to the manner of proceeding, for instance the summons, warnings, etc...."

language. It is allowed to translate into this language the acts and documents that originally are written in a language less known.

Three authenticated copies, photostatic included, of the acts of the process and of the documents should be sent to the Sacred Congregation. The original or handwritten text should be kept in the archives of the curia or the tribunal. If requested by the Sacred Congregation, it should be sent to Rome, with due precautions.

It is most convenient that the exemplar of the judicial acts and the documents be typed, all pages numbered and bound with the signature of the Notary attesting to the faithful translation, its completeness, and its authenticity.

PROHIBITORY CLAUSES

Once the pontifical dispensation from the bond of a ratified non-consummated marriage is granted, the parties may re-marry, unless expressly prohibited. The Holy See sometimes includes some clauses prohibiting a new marriage until the party or parties are considered fitted to face the duties of marriage responsibility. The purpose is to prevent further matrimonial failures. A prohibition is expressed by the words **ad mentem** and **vetitum.**

a) The prohibitory clause **ad mentem** is used when the fact of non-consummation depends on causes of less relevance. Its removal is committed to the Bishop, who should not allow a new marriage unless the party asking for the removal can assume the conjugal obligations and promise to fulfill them in the future honestly in accordance with Christian tenets.

b) In peculiar cases, i.e., when the fact of non-consummation is due to a physical or psychical defect of a serious nature, the prohibitory clause **vetitum** for a subsequent marriage is used which, unless otherwise expressly stated, is not a diriment impediment, but only prohibitory. Its removal, however, is reserved to the Apostolic See, which allows the party to marry again only when it is believed that said party is able to perform the conjugal act in the right manner.