

NEW PONTIFICAL DOCUMENT ON MARRIAGE CASES

With the *Motu Proprio Causas Matrimoniales* of 28 March 1971 His Holiness Pope Paul VI made provision that notable modifications be made to the procedure regarding cases of nullity of marriage, in order to ensure a more rapid solution in the judicial trial. With his approval of a new Instruction of the Sacred Congregation for the Discipline of the Sacraments, published in the latest number of the *Acta Apostolicae Sedis*, with the title "De quibusdam emendationibus circa normas in processu super matrimonio rato et non consummato servandas", the Pope has seen fit to dispose that the procedure governing the drawing up of *ratum et non consummatum* marriage cases, hitherto governed by the Norms of 7 May 1923 of the above Sacred Congregation, should be modified in several points.

THREE PARTS

The draft of the new Instruction was sent to the entire Episcopate, in order that each prelate might express his opinion and make observations and suggestions reflecting local needs or particular local solutions. Together with the agreement of the Episcopate there arrived suggestions and comments which it has attempted to meet in the drawing up of the final version of the document, which begins with the words *Dispensationis Matrimonii*. The document is divided into three parts:

1) General faculties granted to Bishops to draw up cases *super rato*; II) The drawing up of the case and the drawing up of the judicial acts; III) Clauses usually included in papal rescripts *pro gratia*.

After a short introduction on the exclusive competence of the Sacred Congregation of the Sacraments in cases *super rato*, according to the Apostolic Constitution *Regimini Ecclesiae Universae* of 15 August 1967, the document lists the innovations and derogations of the previous procedure. They are all of a

juridico-pastoral nature, and for the first time there is introduced the general faculty *a jure* for the bishops to draw up cases *super rato*, in derogation of Canons 1557.3 ad n. 1963.1 of the Code of Canon Law. There is a limitation for the so-called "difficult cases" which, before being drawn up, are referred to the Sacred Congregation for the Discipline of the Sacraments.

MORE EXACT DISCIPLINE

Other points of important procedural modifications are those connected with the general prorogation of competence to draw up such cases, with a better and more exact discipline governing the passage of such cases from the judicial to the administrative field, with the adding of the *votum* of the Ordinary to that of the Tribunal, with the need to produce witnesses (there is no longer any mention of "*septimae manus*" witnesses), with the physical examination of the spouses, which will be carried out when considered necessary, with the use of tape-recorders for hearing the parties and the witnesses, with the new figure of the confidential Counsellor or the Bishop and the parties at any phase of the case, with the use in the acts of the case, besides Latin, of the more commonly known vernacular languages, and finally with the juridico-pastoral reasons that from time to time cause the Apostolic See to include in rescripts *pro gratia* clauses forbidding the contracting of a new marriage without the *nihil obstat* of the Bishop or of the Apostolic See to include in rescripts affected by the clause shall have shown that he or she is fitted to face the duties of marriage responsibly. The aim that the Apostolic See sets itself including such clause is the prevention of further matrimonial failures and the protection by the *pro gratia* provision of the spiritual, moral and social interests of third parties.

The Instruction comes into force, according to the norms of law, three months from the date of the number of the *Acta Apostolicae Sedis*.