DECRETO DE LA SAGRADA ROTA ROMANA

DE 10-IV-1987, *CORAM* D. FALTIN

DECREE OF TURN

We, the undersigned Priest-Judges of this Turn, legitimately convened on April 10, 1987 at this Apostolic Tribunal to determine and define solely the pre-judicial, that is, incidental question, namely:

«WHETHER A NEW PRESENTATION OF THE CASE SHOULD BE ADMITTED IN THIS CASE»

1) *Wherefore*, after having read and examined all the procedural acts and the acts of the case above; and

2) *Wherefore*, after having carefully considered:

a) the definitive sentence (Cf. Summ. lum. pp. 36-38) issued on January 3, 1980 by a single Judge;

b) the definitive sentence issued on February 18, 1980 by the Appellate Collegiate Tribunal of three Judges (Cf. Summ. lum., pp. 71-135); and

3) *Wherefore*, after the Respondent had taken recourse on November 13, 1980 to the Supreme Tribunal of the Apostolic Signatura (Cf. Summ. lum, pp. 136-144), which said Tribunal transferred to our Apostolic Tribunal; and

4) *Wherefore*, after having taken into account the vote submitted by the Promotor of Justice of our Tribunal on December 3, 1986 (Cf. Summ. lum., pp. 172-173; and

5) *Wherefore*, after having reviewed the animadversions, dated April 1, 1987, of the Defender of the Bond; and finally

6) Having before us the notable defenses of the both Advocates appointed «ex officio» on March 5, 1987 for de Plaintiff and the Respondent, dated and submitted respectively on February 7, 1987 and April 3, 1987

HAVE DECREED

I. THE FACTS

1) In 1959 Helen (mulier), the Plaintiff in this case, born on August 11, 1934, and Anthony (vir) the Respondent, born September 29, 1920 met, fell in love and became engaged, despite opposition from the Plaintiff´s family.

The wedding took place on December 31, 1960.

Conjugal cohabitation and married life which in fact lasted until 1977, that is, about sixteen years, was characterized in the beginning as serene and happy.

However, ever since Anthony in 1967 received his mother-in-law into his home, who had been abandoned by his wife's two brothers and three sisters, difficulties, disagreements, arguments, and fights, etc. began to surface and then when the other members of the Plaintiff's family began to interfere as well, the intimate partnership of married life waned and became worse year after year.

In 1977 after a brief period of temporary separation from March of 1976 to September 1977, the Plaintiff, notwithstanding the birth of four daughters, sought and obtained a divorce from a civil court in California on May 22, 1978.

2) On March 1, 1978 Helen presented a petition to the Diocesan Tribunal, alleging the nullity of her marriage on the grounds of Anthony's inability to offer «a true love or to establish a relationship with me as a wife and was incapable of a minimal matrimonial relationship» (Cfr. Summ. lum., p. 11, par. 4).

To the established doubt, namely,: «Whether this marriage should be declared null and invalid because of the lack of due discretion *on the part of both parties*» (Cf. Ib., p. 32, par. 2), the Tribunal consisting of a single Judge (according to the Norms of the Rescript of Pope Paul VI «Attentis Precibus» of April 28, 1970, Protocol Number 3320/70) on January 3, 1980 issued a definitive sentence in the first grade of jurisdiction, whereby it was declared: «null and invalid from the beginning on account of the lack of due discretion *on the part of both parties because of psychological factors*» (Cf. Summ. lum., p. 67) and forbade the Respondent to enter into another marriage without «a psychiatric evaluation by a medical expert appointed by the Tribunal to ascertain his actual capacity for marriage», and also neither party was allowed to inspect «the acts of this case» because danger of «the violation of the rights of privacy» according to norm #18 of «the American Procedural Norms» (Cfr. Summ. lum., pp. 67-68).

The Respondent appealed against this sentence to the Archdiocesan Tribunal two days after the sentence ha been issued, that is, January 5, 1980.

The Appellate Tribunal after two days, i.e. January 7, 1980, established the objet of the judgement by formulating the doubt to read: «Whether or not the marriage of Helen and Anthony was null and invalid *because of the mutual lack of due discretion on the part of the parties*» (Cf. Ib., p. 72, par. 4-5).

On January 12, 1980 the Tribunal by decree assigned as a «guardian ad litem», on behalf of the Respondent, the Reverend Chancellor of the Archiepiscopal Curia.

Finally, on February 18, 1980 a definitive sentence in the second grade of jurisdiction was issued whereby a Collegiate Tribunal of the Judges decreed: *AFFIRMATIVE*, that is, «the marriage of Helen and Anthony was null from the beginning because of *the psychological incapacity of the Respondent* to establish and maintain a community of life and love *and because of the lack of due discretion on the part of both the Plaintiff and the Respondent, due to their psychological disturbances*» (Cf. Summ. lum., p. 135).

3) On November 13, 1980 the Respondent took recourse to the Supreme Tribunal of the Apostolic Signatura

«because the Diocesan Tribunal did not reply to my request for appeal» (Cf. Ib., p. 136 in fine); for this reason, the case was delayed in being processed by Our Tribunal.

Since the deadline for appeal had elapsed, the Respondent did not receive a reply; the case by decree of the preceding Judge-Relator was declared on October 4, 1986 «abandoned» and the acts of the case were filed away in the archives (Cf. Summ. lum., p. 145).

But when the Respondent submitted the requested account of the events of his dealings with the Tribunal from which his appeal was being made, on July 30, 1986 (Cf. Ib., pp. 157-158 et 159-170), the same Judge-Relator, on October 7, 1986, ordered bu decree the suspension of the peremption of the case; and then upon receiving the vote of the Promotor of Justice on December 3, 1986 (Cf. Summ. lum., pp. 172-173), and after assigning ex officio an Advocate on behalf of both parties (Cf. Ib., p. 174), established on December 15, 1986 that there be raised a «pre-judicial question about the concession of a new examination of the case by opening the record of the case» (Cf. Ib. p. 175).

4) Since the preceding Judge-Relator in this case has been raised to the episcopal dignity, the Most Reverend Dean of the Roman Rota assigned by decree on February 10, 1987 the same case to the undersigned Judge-Relator.

II. THE LAWS

5) It is quite apparent that a question of a new presentation of a case is not properly speaking an incidental question, much less a preliminary one, but rather it is a pre-judicial one. The reason is because, if a negative reply is to be given to the doubt: «Whether a new presentation of the case should be admitted», then «it could hardly proceed based on the merits of the case itself».

Moreover, it must be emphasized that in the new examination of a case, there is no question of granting a favor, but rather a question of administering justice.

«An adjudged matter enjoys the stability of the law and settles an issue between parties», and cannot be directly challenged except in accordance with the norm of canon 1645, paragraph 1 (Cfr. canon 1642).

But since cases dealing with the status of persons never become irrevocably adjudged (can. 1643), even if two concordant sentences have been issued, such cases can be appealed at any time to another appellate tribunal ... (can. 1644, par. 1).

Under the law and with good reason has the Legislator established that a case after two concordant sentences have been issued should not be admitted to a new examination, «unless new and weighty proofs or arguments are presented within the peremptory time period of thirty days from the time the challenge was made» (can. 1644, par. 1).

New and significant reasons or arguments or documents are to be presented which hat not been carefully appraised at all during the previous judicial processes or instances, even though they certainly should have been, so that they draw the judge's attention to the flaws contained in the preceding decision. It is not required, however, that they be the *most* weighty, much less be overwhelming, i.e., such as would peremptorily demand a contrary decision (Cf. art. 217. part. 3, Instr. *Provida Mater*); but they should be such that doubtless considered in themselves, along with arguments previously gathered would probably persuade the

judge to issue a contrary decision (Cfr. R.R. Dec., vol. 40, p. 354, n.2).

Thus, it is clear what does no suffice is a simple check or review of the proofs and arguments of the appeal sentences «winch although introduced and examined in previous decisions, did not influence the judges to alter their decision in favor of nullity» (Cfr. Dec., C. SABATTINI diei 1 iunii 1957) or «criticisms dealing with a mere dispute over incorrect argumentation of a definitive sentence» (Cf. R.R. Dec., vol. 57, p. 470).

New and serious arguments can be extrinsic and intrinsic.

Among the extrinsic arguments that should be listed are most recently discovered documents whose existence was previously known or whose existence was discovered a later time. Likewise, the concealment of documents and distortion of facts must be considered as serious proofs, in that any concealment of documents or distortion of facts offends the truth and violates justice. Furthermore, any remarks or observations against the preceding sentence has force «provided they demonstrate by way of critical arguments that the Judges erred in applying the law or in interpreting the facts» (Cf. R.R. Dec., vol. 67, c. EWERS diei 26 iulii 1975, p. 257, n. 3).

Among the intrinsic arguments there must be most certainly included not only the violation of the law either procedurally or in the actual decision-making itself (Cf. AAS, 63, 1971, 329-330), which was brought about not merely by an evident neglect of the requirements of procedural law (Cf. can. 1645, par. 2, n. 4), but also, *a fortiori*, a violation of the principles inherently linked wich the institution of marriages principles which are rooted in the very law of nature itself, particularly in cases dealing with the nullity of marriage, due to a lack of discretionary judgment or to an incapacity to assume the essential duties of marriage owing to causes of psychic nature.

As the Supreme Pontiff, Pope John Paul II, in an allocution delivered on February 5, 1987 to Our Tribunal, warned: «Certain trends in contemporary psychology ... far exceeding their own specific competency, are being launched in that field wherein they are being purported as anthropological presuppositions which are not compatible with Christian Anthropology», and which «are not in a position to offer an authentically integral view of the person, resolving alone fundamental questions about the meaning of life and the human vocation» (Cf. Oss. Rom., 6 febbraio 1987, p. 5, n. 2).

Therefore, Judges who are «influenced or deceived, or who are supported by or depend upon experts whose expertise is «based upon unacceptable anthropological *premises*», most certainly violate the principles inherently associated with the institution of marriage, principles which are rooted in the very law of nature itself, and thereby cause undue harm to the sound doctrine on marriage and even destroy it. This principle declared as doctrinal, at least implicitly, can be found contained in a speech delivered on February 22, 1980 by the Most Reverend Dean FIORE, wherein among other issues, it states: «Uncertain psychological conclusions reached by introduction cannot generate certitude about the nullity of marriage; *nor can the Church support those uncertain inductions which eliminate or weaken those emerging principles linked with the institution of marriage, principles so clearly defined by nature for the whole human race*» (Cf. R.R. Dec., vol. 72, 1980, n. 11).

Moreover, «Judges who have based their decisions, when declaring marriages null and void after many years of cohab-

itation and conjugal life, solely upon an unhappy marital outcome, *seriously violate the rights of persons*» (Cf. Litt. Circ. Signaturae Ap. diei 30 novembris 1971, in Documenta recentiora, vol. I, Romae 1977, p. 23, n. 23, n. 51 et Periodica de re morali ...vol 62, fasc. IV, 1973, p. 589, n.6).

At the same time, since the unhappy outcome of a conjugal union alone «is never in itself proof for demonstrating the incapacity of the contractants», the duty of the ecclesiastical Judge is most certainly the priestly ministry of upholding «truth and charity in the Church and for the Church» even in the case wherein, for reasons of his own love for truth and justice, «he must deny the request for a declaration of nullity» (Cf. Alloc. cit., in Oss. Rom., 6 febbraio 1987, nn. 7 e 9).

III. THE ARGUMENT

6) Indeed, considered in itself, the task of the ecclesiastical Judge is difficult, a task which becomes even more difficult when dealing with marriage cases involving a serious lack of discretionary judgement concerning the essential matrimonial rights and duties which are to be mutually given and accepted or involving cases of nullity because of an incapacity to assume the essential obligations of marriage due to causes of a psychic nature, as mentioned in canon 1095, nn. 2-3 of the Code of Canon Law; the task is difficult because of the diverse weaknesses of human nature and the temptations inherent in the world, especially .,. «When we consider that the anthropological view whereby numerous psychological trends are purported in the field of the behavioral sciences of contemporary times, is decisively, taken as a whole, irreconcilable with the essential elements of Christian Anthropology» (Cf. Alloc. cit., p. 5, n. 4), inasmuch as «said view of the person and the institution of marriage is irreconcilable with the Christian concept of marriage as an intimate community of conjugal life and love», in which the spouses «mutually give and accept each other» (Cf. Gaudium et Spes; can. 1057, par. 2, in Alloc., cit., Oss. Rom., p. 5, n. 6).

Above all, what the Judge must keep in mind is the principle according to which «only the incapacity and not the difficulty of eliciting consent and of realizing a genuine community of life and love, renders a marriage null». In a word: «Incapacity cannot be confused with even remarkable difficulty» (Cf. Mario F. POMPEDDA, De incapacitate adsumendi obligationes matrimonii esentiales ... in Periodica de re morali ..., vol 75, 1985, p. 150, n. 16).

7) Hence, it is useful to have already pointed out:

a) that especially the Respondent's Advocate ex officio, who presented the principles of law and explained well and clearly the reasons which, from a procedural point of view and from the point of view of the decision-making itself, discussed the defects of both previously issued sentences (n. 4, p. 5; nn.5-6, pp. 5-6) and demonstrated how the single Judge of first instance and the three Judges of the appellate Tribunal erred not only when applying the law and interpreting the facts, but also when explaining Catholic Doctrine about the indissolubility of marriage, and particularly showed how the two psychiatric evaluations upon which these decision were based were irreconcilable with Christian Anthropology. Consequently, he requested that the proposed doubt receive

an affirmative response, i.e. that «new presentation of the case be admitted» (Cf. Restrictum, p. 7).

b) that likewise it must be mentioned that the appointed Defender of the Bond, who indeed «in fact» (Cf. Animadv., pp. 5-6) explained his observations, strongly maintains that «there are many reasons why the case should be admitted to a new examination, especially for the purpose of defending truth and justice» (Cf. Ib., p. 6).

c) that the Plaintiff's Advocate ex officio requested that since the Respondent's recourse had been rejected at the outset, the preceding decision be confirmed and that the case be declared terminated (Cf. Restr., p. 10); he based his request principally on the following reasons, namely:

1. the Respondent did not present proofs and arguments within the peremptory period of time of thirty days from the date of the proposed challenge (Cf. Ib., p. 6).

2. the reasons which in his opinion the Respondent offered were simple accusations «against the administration of justice in the ecclesiastical tribunals of the United States» (Cf. Ib., p. 6 in medio), and therefore, they could not be considered as new and serious arguments. To this line of reasononing we must at once reply that it is not true, since the Respondent introduced precise and accurate accusations against the Tribunals of first and second instance (Cf. Summ. lum., pp. 139-142).

8) The Plaintiff, Helen who in fact was once employed by a certain diocesan office as a social assistant and marriage counselor at «Catholic Social Services» (Cf. Summ. Summ. lum., p. 137) and «had connections» with officials (p. 166), filed a petition on March 1, 1978 with the Tribunal of the same diocese and alleged the nullity of her marriage because of the husband's incapacity of «maintaining a relationship with me as a wife and was incapable of a marital relationship» (Cf. Summ. lum., p. 11).

The Tribunal formulated the doubt on the grounds of lack of discretionary judgement *on the part of both parties*, to which doubt the sentence issued on January 3, 1980 returned an affirmative reply «*because of psychological factors*» (Cf. Summ. lum., p. 67).

When the Respondent *after two days* had appealed against this decision, i.e. on January 5, 1980, to the Archdiocesan Tribunal that Tribunal which was «legally constituted on January 6, 1980» (Cf. Ib., p. 71) immediately proceeded on January 7 of the same year, i.e. after two days, «having duly cited the parties», which in our opinion is absolutely astounding, to formulate the doubt to read: «Whether or not the marriage of Helen and Anthony was null because of the mutual lack of *discretionary judgement on the part of both parties*» (Cf. Ib., p. 72) *and then in an unusual manner* (i.e. in Italian the word «strangely» was used) *Accepted the Respondent's appeal* (Cf. Ibidem).

The parties in the case were not interrogated again by a Judge, but rather by a notary on January 8. Two psychiatric experts appointed ex officio were called upon, namely, Dr. N.N. an Dr. N.N. By decree a guardian ad litem on behalf of the Respondent was appointed on January 12, 1980, namely, the Reverend Chancellor of the Archdiocese. Finally, on February 18, 1980, a definitive decision was issued in the second grade of jurisdiction whereby the nullity of the marriage was decreed proven «*on the*

grounds of psychological incapacity on the part of the Respondent to establish and maintain a community *of life and love*, and also on the grounds of the lack of due discretion on the part of both the Plaintiff and the Respondent, *due to psychological disturbances*» (Cf. Summ. lum., p. 135).

9) In the acts of the case there is contained two expert evaluations, namely, on from Dr. N.N. which is not dated (Cf. Summ. lum., pp. 18-28), and the other from Dr. N.N. which is dated January 8 (Cf. Ibidem, p. 28-35).

Neither expert subjected the Plaintiff or the Respondent to an expert anamnestic or diagnostic examination, but both were present together, i.e. *concurrently*, only for the interrogation of the parties, and examined the depositions of the four whiteness. Notwithstanding these factors, both experts confirmed «that at the time of the marriage of these two parties, the *Respondent*, Anthony, was suffering from a disturbance called a *paranoid personality*», (Cf. Summ. lum., p. 26 et p. 33 in medio), and indeed, if one listens to Dr. N.N. «... of sufficient gravity *to interfere with the intention and in the maintenance of a valid matrimonial contract*» (Cf. Ib., p. 27); and according to the other expert, Dr. N.N. «of such a range that in a significant way it interfered with the Respondent's capacity to contract the matrimonial contract» (Cf. Ib., p. 28 in fundo).

The experts based their findings on the following reasons:

a) according to Dr. N.N.: because «Tony (i.e. the Respondent), who in fact is described as an inflexible person, stubborn, hard-headed and so forth «*sees his marriage by its nature as a permanent commitment until death*: which would have been permanent and *indissoluble*» (Cf. Summ. lum., p. 19 in medio). Consequently, as Dr. N.N. seems to affirm according to his way of reasoning, the Respondent is presumed to have a «paranoid personality» (Cf. Ib., pp. 25-26).

b) According to the opinion of Dr. N.N., after he had observed that during the interrogation at the Tribunal, it was noticed that the Respondent *adhered rigidly to the idea of a commitment for his entire life* (Cf. Ib., p. 31 cpv. 3), although he did not show loss of contact with reality as it appears in the paranoid schizophrenic»; the same Respondent due to «*his absolute determination to preserve the marriage*, which evidently is not a marriage, is *typical of the paranoid personality*» (Cf. Ib., p. 33 in fine et p. 34 initium). For this reason the expert «recommended that this marriage be annulled *on this basis*» (Cf. Ib., p. 34 cpv. 3).

Regarding the Plaintiff Dr. N.N. claimed: «I do not find a basis for a psychiatric diagnosis of her emotional state» (Cf. Ib., p. 12 in fundo); whereas, on the other hand, Dr. N.N. affirms that she is suffering «*from a disturbance classified as a passive-aggressive personality*» (Cf. Ib., p. 28 in medio); for this reason, since the marriage which «she contracted *was extremely unhappy* from the very first years», he believes that «*it would also be* appropriate to annul the marriage on the basis of a disturbance of personality on her part» (Cf. Ib., p. 35).

It is obvious that the proposed conclusions of the experts are as uncertain and undefined as they possibly could be, and most certainly not compatible with the principles of Christian Anthropology; and in fact they are diametrically opposed to Catholic Doctrine on marriage and to the principles associated

with the institution of marriage, which have as their source the very law of nature.

Notwithstanding all of this:

a) the single Judge of first instance uncritically and carelessly accepted the conclusions of the experts and made them his own, or at least he was influenced or deceived by these same experts about the nullity of this marriage being discussed here, and declared in a decision that the marriage was null «*by reason of psychological factors*» (Cf. Summ. lum. p. 67).

b) The Collegiate Appellate Tribunal when describing rather long-windedly the Respondent's personality according to the depositions of the four whiteness (Cf. Ib., pp. 117-129), declared: «the proofs establish in a definitive way the Respondent's abnormal hypersensitivity» (Cf. Ib., p. 130). In reference to the Respondent's lack of discretionary judgement, the Appellate Tribunal stated: "One example is sufficient ... He chose to participate, taking advantage of every opportunity offered to him of *affirming and repeating a religious and exaggerated preoccupation with the sacramentality of marriage and its indissolubility*» (Cf. Summ. lum., p. 131 in medio); this would be «typical of the paranoid personality» according the unanimous conclusions of the experts (Cf. Ib., p. 132). which the Appellate Tribunal fully accepted and thereby confirmed the decision of first instance «*on the grounds of the Respondent's incapacity* to establish and maintain a community of life and love, and also on the grounds of the lack of due discretion on the part of the Plaintiff and Respondent, *due tod their psychological disturbances*» (Cf. Ib., p. 135).

10) It should be pointed out that the sentence of second instance was issued beyond what was petitioned. Since the objet of the trial (Cf. can. 1766 CIC/1917 e can. 1400, par 1/NC) is established by the «joinder of issues", i.e. by the Respondent's formal opposition to the Plaintiff's petition with the intention of litigating it before a judge, the judge must define in the sentence the object of the controversy as it has been established in the formulation of the doubt, and not define other matters. Therefore, «whatever else he decrees beyond what was petitioned is consequently null» (Cf. Decretum c. DI FELICE diei 26 martii 1979 in separationis S. Christophori de Laguna, p. 7, n. 6).

Moreover, it is quite clear that the lack of discretionary judgment and the incapacity to assume the essential obligations of marriage due to causes of a psychic nature are two diverse and distinct grounds.

In our case here, however, it seems that in second instance the doubt was formulated *only* on the grounds of the lack of discretionary judgement on the part of both parties (Cf. Summ. lum, p. 72) and not on the grounds of the Respondent's inability «to establish and maintain a community of life and love". Thus, for the aforementioned reasons, this is not a mere question of "tautology», as the Promotor of Justice claims in his vote on December 3, 1986 (Cf. Ib., p. 173, cpv. 2). Consequently, the Respondent's right of defense both procedurally and judicially appears to have been violated.

Furthermore, it should be pointed out that the sentence of first instance had declared the nullity of the marriage «*because of psychological factors*» (Cf. p. 67), whereas the Appellate Tribunal issued its sentence of nullity on the grounds of «*psychological disturbances*».

While it is admitted and granted that

there was a uniformity of two sentences, it is clear that expressions like «*psychological factors*» and «*psychological disturbances*» are too vague, uncertain and indefinite. The force of certitude cannot be attributed to matters that are uncertain or undefined.

Finally, if everything has been properly set forth, that is, if it is true that this marriage is indeed null due to a lack of discretionary judgement on the part of the Plaintiff, then justifiably and reasonably we ask: why was a guardian ad litem appointed only for the Respondent and not also for the Plaintiff? Where the reasons are the same (for both parties), then the disposition of the *same* law is to be applied (to both parties).

This manner of proceeding by the Appellate Tribunal is hardly at the service of truth. It reeks with discrimination and the favoring of persons. Consequently, there arises a legitimate suspicion about the correct administration of justice, and more particularly confirms everything that the Respondent explained in his letter of November 30, 1980 (Cf. Summ. lum., p. 139), even though Our Promotor of Justice maintains the contrary and is of the opinion that «the arguments offered by the Respondent are disproportionate to the concession of a new examination of the case» (Cf. Ib., p. 172). The same must be said about the Plaintiff's advocate regardless of what he says about the peremptory recourse according to canon 1644, par. 1. The reason is that it is not the task of the Respondent but that of the Tribunal which refused to reply to the Respondent's repeated requests (Cf. Summ. lum., p. 136) and which even the preceding Judge-Relator in this case should have acknowledged but who eventually did decree on October 7, 1986 that the peremption of the case be suspended.

In conclusion, it is worth the effort, by way of corollary, to remember and bear in mind the following:

a) the lack of necessary discretion, judged by the Tribunals of first and second instances, on the part of both parties (pp. 67, par. 4; 135, par. 2) due to «*psychological factors*» (p. 67, par. 4) or due to «*psychological disturbances*» (p. 135, par. 2), is in no way verified by the parties' confessions regarding their premarital lives, their relationship during the engagement period, and *even for seven years of the marriage itself.*

The Plaintiff confesses that there were arguments over her mother's living with them in their home, from 1967 to 1976, and «at that time, basically, they hated each other», whereas «in the beginning it was not so» (p. 150/22-23). In her petition she wrote: «In my experience of living with Tony, *I do not believe* he showed strong paranoid tendencies» (p. 11).

It does not appear that the Plaintiff was suffering from any psychological disturbances which would have prevented her form eliciting contractual consent and therefore, matrimonial consent, in view of her job at the Gladman Hospital, inasmuch as «we worked full time with the psychiatrist who was the first therapist and with the other members of the staff who worked with those patients» (p. 146/30; et p. 137).

A few months after they had separated which was at the Plaintiff's requests, «she sent me a written notification», saying, «because I would like to remarry, I will request a divorce and an ecclesiastical annulment». The Respondent added: «Aware of her very slight possibilities, she formulated her request for an annulment with the help and counsel of professional advisers on the basis of psychological arguments as being the only possible chance of obtaining the

annulment she desired» (pp. 138-139). This seems to confirm that the Plaintiff «began to see a person, particularly polite, in 1978 and the children loved him and she went out with him for four years» (p. 151).

The Respondent writes (July 30, 1986) that the Plaintiff «lived with her parents until she married. She was twenty-five years old and I was fourteen years older, an immigrant from a country culturally very different, and a factory worker, whereas she had had an academic education, and because of this a serious period of adjustment on the part of both of us was necessary. *And during the first seven years* it seemed that we were happy and that our mutual adjustment was rewarded». The decline of conjugal life occurred later: «unfortunately, a dramatic change came about when my mother-in-law, my wife's mother, moved into our home around 1967» (p. 161, par. 2-3). Serious problems arose: «We were clashing, but I being one against six, had no possibility of success» (p. 162, par. 2):

b) The evaluations offered by the psychiatrists, Dr. N.N. and Dr. N.N. (Cf. pp. 12-27; 28-35) are judged to be opposed to true Catholic Doctrine on marriage and to the principles of Christian Anthropology, Therefore, this Sacred Tribunal ex officio must earnestly seek professional evaluations from distinguished psychiatrists associated with this Tribunal, in accordance with Rotal jurisprudence and the doctrine of the Church.

After having carefully weighed the aforementioned facts, We, the undersigned Priest-Auditors of this Turn, decree that a reply is to be made to the prejudicial question proposed above, that is, «Whether a new presentation of the case should be admitted» and in fact reply:

«AFFIRMATIVELY, that is, a new presentation of the case must be admitted in this case».

This Decree along with its juridical effects is to be communicated to all persons concerned.

Given at Rome, at the seat of this Apostolic tribunal of the Roman Rota, this 10th day of April 1987.

/S/ Francis BRUNO
/S/ Edward DAVINO
/S/ Daniel FALTIN, O.F.M. CONV., RELATOR
/S/ John VERGINELLI, NOTARY
From the Chancery of the Apostolic Tribunal of the Roman Rota
/S/ Anthony FANELLI, NOTARY