

## VOCABULARY

***Acta Apostolicae Sedis:*** Usually cited as **A.A.S.** An official publication of the Holy See which contains a report on addresses and activities of the pope as well as the official text of documents, such as encyclicals, decrees, directives and the like. Unless other arrangements are made in a particular case, all legislative documents must be published in the A.A.S.

**Acceptance of Petition:** Can apply to a decree, a process or a decision.

1. If used to apply to a decree, it means the formal decree whereby a judge, having heard the advocate and the defender, admits a petition for trial.
2. If used to apply to a process, it means the hearing, either oral or by writing, whereby the judge considers the arguments of the advocate and defender on whether or not to accept a petition for trial.
3. If used to apply to a decision, it means the actual decision made by the judge to accept the petition. In order that a petition be accepted it is required that the Petitioner show:
  - a. A basis for a petition, that is, allege that there is present a ground or grounds recognized in law or jurisprudence as being sufficient to cause nullity if proved, and
  - b. A possibility of proving the alleged ground (ordinarily this latter requirement is met when the person presents a list of possible witnesses).

***Acta:*** The complete record of a formal case, that is, documents relating to procedure and evidence. The term is also used sometimes as a reference to the *Acta Apostolicae Sedia* (which see), usually in conversation but not in writing. “*Acta processus*” = procedural acts; “*acta causae*” = evidence.

**Administrative Procedure:** A non-judicial process whereby the one who makes the judgment relies on proof largely obtained from documents. For example, a defect of form case is ordinarily handled under administrative procedure. The one who handles the case need not be a judge and the duly constituted judges of the tribunal are not, in virtue of their office, authorized to make judgments using this process. If someone other than the Ordinary renders decisions in cases under administrative procedure, he or she does so in virtue of delegated authority from the Ordinary even if that person is a duly constituted judge of the tribunal.

**Advocate:** A person appointed by a party to defend his or her point of view before the court. Thus, both Petitioner and Respondent may have an advocate. Ordinarily, if both parties agree on the petition, it is sufficient that there be only one advocate to represent both. Each party before the court, whether as Petitioner or Respondent, has a right to an advocate. See also the term “Procurator.” Ordinarily the advocate will argue for the position of the “client.” However, in ecclesiastical procedure, the advocate is an officer of the court and his or her obligation is the service of truth. Thus, the direction given by Pius XII to defenders is applicable also to advocates, that is, they are not obliged, nor should they advance spurious arguments in favor of their client’s position but, rather, strive to insure that the court arrives at the truth. See the allocution of Pius XII of October 2, 1944.

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An English translation of excerpts can be found in Lawrence Wrenn, *Annulments*, Canon Law Society of America: Toledo, 1978 (3rd edition, pp. 140-141; 4th edition, Washington, DC, 1983, pp. 134-135).

**Amentia:** A severe mental disturbance which renders a person incapable of comprehending the formal object of matrimonial consent or incapable of giving such consent. Ordinarily the term should properly be restricted to cases involving severe psychoses.

**Annulment:** A determination that a particular marriage was null, that is, did not give rise to a valid, binding matrimonial bond because of the presence of some factor recognized in law as preventing a valid bond. It should be noted that a declaration of nullity is not always the same as saying that there never was a marriage. The union, even though declared null, can, for example, give rise to legitimate children and obligations such as child support, insuring education of children and the like. Essentially, the declaration of nullity is a statement that by entering the previous union the person did not establish an indissoluble marriage bond which could be broken only by death.

**A.P.N.: American Procedural Norms:** A series of twenty-three (23) norms or special procedural laws issued by the Holy See for the United States at the request of the National Conference of Catholic Bishops. They originally took effect on July 1, 1970, and were renewed indefinitely in 1974, remaining in effect until the promulgation of the *de processibus* section of the revised code of canon law. The explicit purpose of the A.P.N. (sometimes referred to as the 23 Norms or simply Norms) was to expedite the formal process for marriage cases.

**Appeal:** A review by a higher court of the action taken or decision given by a lower court.

**Argument Section:** That portion of a sentence in which the judge explains how the conclusion has been reached.

**Auditor:** One who takes a formal deposition (testimony) from a party or witness in a case. The judge takes testimony virtue of his office. An auditor may be appointed to the position either as a general assignment or may be delegated for a particular case or to hear the testimony of a particular witness. This latter is what generally happens in the case of a rogatory commission.

**Authentic:** Literally means genuine or being precisely what it claims to be. The term is usually applied to documents and means that the piece of paper corresponds with the original record. It implies that the document being considered is in accordance with the original. Documents issued by civil authorities are usually “certified as being authentic copies of the record of facts. In the case of a copy of an original, the copy can be authenticated by a notary, either ecclesiastical or civil, who compares the copy with the original and certifies that he copy is an exact one.

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**Brief:** An argument in support of a particular position. In marriage cases, the brief will come from either an advocate or a defender and will state the point of view he, or she represents in the case. Thus, it can be classified as a brief of the advocate (in which case it will argue for the nullity of the marriage) or a brief of the defender (which will argue in defense of the bond of marriage). The argumentation in a case may now be either written or oral or a mixture of the two. To be precise, the word “brief” should be confined to written argumentation, although it is sometimes used to refer to this oral argumentation.

**Canonical Age:** The age at which a person is legally competent to perform a certain action or undertake a certain obligation. Church law decrees that the canonical age for marriage is sixteen (16) for males and fourteen (14) for females. (May be different from civil requirements)

**Canonical Form:** See Form of Marriage.

**Caput or Ground:** The basis for a petition of nullity.

**Causas Matrimoniales:** A *motu proprio* (a legislative document) issued by Pope Paul VI, on March 28, 1971, for the explicit purpose of expediting the process in marriage cases. It exists as universal law and derogates from or partially modifies the law of the code (of 1917) in certain matters. It was abrogated by the 1983 code.

**Cautiones:** The promises that have to be given by a person prior to a mixed marriage. Since the *motu proprio Matrimonia Mixta*, March 31, 1970, the promise has to be given only by the Catholic party, and may be either oral or written. It involves a declaration the Catholic party will be faithful to his/her tradition and will do all in his/her power to see to the Catholic baptism/education of the children. By way of exception in certain privilege of the faith cases, the non-Catholic party is required to make comparable promises.

**Certitude:** See Moral certitude.

**C.I.C.:** See Code of Canon Law.

**Citation:** An official notice, summons or subpoena served on a person, either a principal or witness in a case, calling upon him or her to present evidence to the court.

**Code of Canon Law:** (Usually abbreviated C.I.C.) Initially the body of law compiled and promulgated as universal Church law in 1917. Five books dealt with general norms, persons in the Church, things, procedures and penalties. It was abrogated by the 1983 code with its seven books on general norms, the people of God, the Church’s teaching and sanctifying offices, temporal good, sanctions, and procedures.

**Competence:** The term refers to the jurisdiction of a tribunal whereby it possesses the power to try a particular case. It is not to be confused with the ordinary English meaning accorded to the word (i.e. expertise in a certain area) but, rather, means “legally qualified” or “qualified by law.”

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**Condition:** A stipulation placed by one of the parties on the marriage consent and of such a character that its fulfillment is a necessary prerequisite for the marriage to become effective and binding.

**Confession:** An admission of some fact or circumstance. It is generally applied to the situation where the party who placed a nullifying condition or intention against a marriage admits to having so done. It is called a judicial confession where the admission mentioned is made in the presence of a judge and as part of a formal hearing that takes place after the formal process has already begun, that is, the confession is made during a court hearing. It is called an extra-judicial confession when the above conditions are not met, or when it is made, even to a judge in a court hearing, before the formal process has begun, that is, before the *contestatio litis* and *tempore non-suspecto*.

**Consortium vitae coniugalīs:** A technical term used in theology but especially in jurisprudence to refer to the totality of married life and love that comprises the living of sacramental Christian marriage. See the Pastoral Constitution *The Church in the Modern World* (*Gaudium et spes*), #47- 52.

**Constat:** The evidence in a marriage case is persuasive enough to move the judge(s) to render an affirmative decision, i.e. the nullity of the marriage is demonstrated.

**Contestatio or Contestatio Litis:** Also called the “Joinder of Issues.” It is the second formal step in the formal judicial process. In theory it refers to the hearing in which the court determines the precise issue to be settled in a case, that is, the issue which is to be proved. For example, “Has the nullity of the Jones-Smith marriage been fully proved?”

**Contra bonum fidei (sometimes contracted to C.B.F.):** Literally means an intention against fidelity, that is, against the exclusiveness of the marital commitment.

**Contra bonum prolis (sometimes contracted to C.B.P.):** Literally means an intention against the good of children. It is a technical term that reflects primarily the notion of an intention at the time of entering marriage excluding the right to non-contraceptive intercourse and its natural consequence.

**Contra bonum Sacramenti (sometimes contracted to C.B.S.):** Literally means an intention against permanence, that is, against the perpetuity of the marital commitment. Note that although the word “sacrament” is used, the term is not intended to apply solely to marriages that might be sacramental. Rather, it is a technical term that relates to the permanence of the marital commitment without reference to whether the marriage is a sacrament or not. Thus, it applies with equal force to the marriages of the non-baptized.

**Convalidation:** See Validation.

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**Coram:** Literally means “before.” It designates the judge before whom a case is tried. Since for the sake of confidentiality, the names of the parties are not used in reporting cases, Rotal and other tribunal decisions will usually be cited by indicating the name of the judge and the date or protocol number of the case, for example, coram Anne, March 15, 1975.

**Crebrae allatae:** A *motu proprio* issued by the Holy See on February 22, 1949, promulgating a universal law governing marriages of members of the Eastern Catholic Churches.

**Culpable Cause:** In the realm of canon law it usually refers to the person who was responsible for the breakup or nullity of marriage, that is, the one to whom the failure or nullity of the union is imputable. Since it embraces the concept of imputability, it inherently implies moral guilt or willful wrongdoing. The distinction becomes important in that, for example, a person who is the culpable cause of the breakup of a marriage is not eligible to receive a privileged dissolution of the marriage, as in a Privilege of the Faith or Pauline Privilege.

**Decisiones, or S.R.R. Decisiones:** The publication which contains the decisions rendered by the Sacred Roman Rota. Decisions handed down by the Rota traditionally were not printed for public distribution until ten years after the decision was originally given. Currently the Rota is attempting to reduce this to a five year wait. Frequently, however, individual decisions may be found in a variety of canonical periodicals, usually containing only the *in iure* section or condensed in such a way that the identity of the parties is kept confidential. See for example *Appolinaris*, *Ephemerides Juris Canonici*, *Il Diritto Ecclesiastico*, *Monitor Ecclesiasticus et at.*

**Decree:** A formal decision issued by an appropriate authority to resolve a particular question. Since the decision is usually given in writing the word is also used commonly to refer to the written instrument which states the decision.

**Defect (Absence) of Form (usually contracted to D.F. case):** Literally, lack of the canonical formalities required for a valid marriage. According to Canon 1108 §1, in order to marry validly, a Catholic must exchange consent in the presence of a duly delegated priest or deacon and two witnesses. The priest or deacon must ask for and receive the consent of the parties through at least some outward signs or manifestations. If any of these elements is missing, the marriage is null by reason of defect of canonical form unless the Catholic has been duly dispensed from the obligation of form. If the defect of form can be established by certain and authentic documents the marriage can be declared invalid or null using an administrative process (see [Administrative Procedure](#)).

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**Defender of the Bond (sometimes referred to simply as the Defender):** An officer of the court appointed by the bishop to defend the bond of marriage or holy orders when their validity is contested. The presence of a defender is also required in such processes as privilege of the Faith and non-consummation cases. Since the defender is an officer of the court, his obligation is the service of truth and not the absolute defense of the bond in all cases. See the allocution of Pius XII October 2, 1944: *A.A.S.* 36 (1944) 281. An English translation of excerpts can be found in Lawrence Wrenn, *Annulments* (Toledo: CLSA, 3rd edition 1978), pp. 139-140; (Washington: CLSA, 4th edition 1983), pp. 133-134.

**Delegated Power or Jurisdiction:** Power or jurisdiction which does not belong to the one who exercises it in virtue of appointment to an office or in virtue of law but, rather, is committed to the individual by one who already has the power. For example, an assistant pastor officiates at a marriage in virtue of delegated power; a pastor officiates in virtue of ordinary jurisdiction. See Canon 131 (1983 code).

**Deposition:** A formal written statement given under oath. It usually refers to testimony taken from principals and witnesses in marriage cases. It sometimes refers to testimony given purely orally by a witness.

**Diagnostic and Statistical Manual of Mental Disorders: III (DSM-III):** A litany of diagnostic terms in psychiatry and standardized definition of each. It is published by the American Psychiatric Association.

**Dicastery:** A generic term that is used to refer to the congregations, tribunals, *secretariates*, etc. of the Roman Curia, as in Roman dicastery.”

**Diriment Impediment:** An external circumstance or characteristic regarded by the law as rendering a person incapable of a particular action, either totally or relatively, so that if the action is attempted it is null. The term is most commonly used in reference to matrimonial impediments. At times a dispensation can be granted permitting the action in question.

**Dispensation:** A relaxation of the law in a particular case. For validity it must be given by one who has the power to dispense. If given by an authority lower than the supreme legislator it is necessary for the validity of the dispensation that there be a legitimate and proportionate cause for granting it.

**Dissolution:** In the canon law on marriage, it means an action by an appropriate authority in which the bond of a valid marriage is terminated.

**Document:** Anything printed, written, etc. relied upon to record or prove something.

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**Documentary Procedure:** A judicial process established for certain types of cases in which all the formalities of procedural law are not required. The process stipulated that cases involving non-dispensated impediments mentioned in Canon 1686 could be tried without using the full formal process.

**Domicile:** Literally means a place of residence. In canon law its meaning is restricted. It refers to a place in which a person has lived for five (5) years or to which a person has moved with the intention of remaining there permanently unless called away. (See also Quasi-Domicile.)

**Doubt:** A suspension of the mind among two or more alternatives, that is, there is question as to which of two or more alternatives is correct.

**Dubiumfacti (Doubt of fact):** See Doubt. A doubt of fact arises when there is uncertainty about a particular fact, for example, whether a particular person was baptized or not; whether a particular baptism was valid or not.

**Dubium iuris (Doubt of law):** See Doubt. A doubt of law arises when there is uncertainty about the existence of a law about the meaning of a particular law, or about its applicability to a particular situation.

**Due competence:** This is a term used by some tribunals to indicate the capacity a person must have in order to function in a specific marriage in such a way as to accomplish the formal object of matrimonial consent, that is, the *consortium vitae coniugalis*.

**Due discretion:** This term refers to the exercise of the critical, evaluative faculty on the part of an individual contemplating marriage so as to be able to make a judgment as to whether or not to enter the union. The notion of discretion includes both the idea of comprehending with reasonable clarity the obligations involved and the idea of a clear judgment on whether or not to assume them. Within the framework of this concept, a guiding principle is that a greater degree of discretion is necessary to assume a future obligation than is necessary to form a judgment about the present.

**Epikeia:** A concept of law used primarily in the Eastern Rite Churches which allows the lenient application of some particular legal provision in an individual case. The premise on which the concept is based is that the legislator cannot take into account every individual human circumstance. Yet the applicability of a particular law to a particular individual should take into account the exact circumstances of that individual. The concept of *epikeia* is that the legislator would conclude, were he aware of these individual circumstances, that the law would not apply in that particular case, or would not apply in all its provisions. *Epikeia* is not to be confused with dispensation or equity.

**Equity:** A body of practical law and procedural rules intended to supplement or even override statutory law in such a way as to enforce rights and duties according to the norms of natural justice where the rigid application of statutory law might actually conflict with this.

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**Error:** A false judgment. The word could also be taken to mean a false intellectual understanding. More generally, however, this latter is called “ignorance.” So, ignorance exists in the intellect while error exists in the will and involves an act of the will, that is, a decision to act or a judgment based on ignorance.

**Error of Fact:** Exists where there is a false judgment about the facts of a particular situation. Error of law exists when there is a false judgment about some aspect of law, either the very existence of the law, its provisions or its applicability. An error of law excuses from all laws except those which have invalidating effect over a particular action or an inhabilitating effect on a particular person, for example, laws establishing matrimonial impediments.

**Error of Person:** An erroneous judgment about the marriage partner, which originally referred to situations of, mistaken identity yet recently has been interpreted more broadly to refer to significant qualities of the prospective spouse.

**Evidence:** That which is introduced in court as a means of proving something. The concept, therefore, would include anything capable of having probative force, such as testimony, circumstances, indications, documents, etc.

**Extrajudicial evidence:** Evidence which is presented outside of a judicial process. The term applies to evidence which is introduced before the judicial process has begun. After the process has begun, it applies to evidence which is not given to a judge or duly appointed delegate, auditor or the like. Such evidence can be admitted into the acts by judicial decree and thereby obtain probative force.

**Favor of the faith:** A concept implying that either admission into the faith or preservation in it is the basis for a particular action or privilege. Canon 1150 (1983 code) provides that in a case of doubt the privilege or the faith (same as favor of the faith) enjoys the favor of the law. The term is also used to apply to the justification for a papal dissolution of a non-sacramental marriage *in favorem fidei*. See also Petrine Privilege and Privilege of the Faith.

**First Instance:** The term can mean either the first level court for a particular area or the first level process of a particular case. So, the diocesan tribunal is the first instance tribunal for that particular case. However, an individual case might be introduced in another court and the first time the process takes place is in this latter court, for example, the Rota. In that situation, the college within the Rota which first handles the case does so as a court of first instance.

**Formal case:** Any case which is tried in the formal judicial process.

**Formal process:** The judicial process in which all the provisions of Canons 1400-1655, 1671- 1685, and 1689-1691 are applicable.

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**Form of Marriage:** The formalities by which marriage is entered. The term usually refers to “canonical form,” that is, to marry validly, a Catholic must exchange consent in the presence of a duly authorized sacred minister (bishop, priest, or deacon) and two witnesses. In the case of Orthodox, there is the additional requirement of receiving the sacred blessing.

**Fraud:** As it applies to marriage, this involves the deliberate concealment of some particular fact or circumstance in order to induce matrimonial consent, in the belief that if the fact or circumstance were revealed the marriage probably would not take place.

***Gaudium et spes:*** *The Pastoral Constitution on the Church in the Modern World*, issued by the Second Vatican Council on December 4, 1965.

**Good conscience:** Literally means a conscience, or moral judgment, with which an individual is satisfied and which he or she believes to be correct. The term is frequently also used to refer to an extrajudicial solution of a marriage case whereby, without a declaration of nullity or dissolution of a previous bond, a person who is remarried receives the sacraments.

**Ground:** *See Caput.*

***Humanae vitae:*** An encyclical of Pope Paul VI, issued on July 25, 1968, which treats of human life within a doctrinal exposition of a theology of marriage and the morality of family planning.

**Impediment:** An external circumstance or characteristic established by law as prohibiting a particular action. Although the term is most commonly found in marriage law it may also be found in relationship to other actions, for example, the reception of Orders.

**Implicit:** Literally means inherently contained. In relationship to the present study, it means a concept contained in an action or intention in such a way that, even though not consciously considered or intended, it influences the performance of the act through its effect upon the will.

***In facta:*** (in fact) In the tribunal context it generally means that section of the sentence in a case which delineates the facts of the marriage under consideration, e.g. names of the parties, dates of birth, religion, date of marriage and the like. In the practice of some tribunals, it might be referred to as “*species facti.*” Some courts, among them the Rota, frequently use the term “*in facta*” to refer to the argument section of the sentence.

***In iure:*** (in law) In the tribunal context it means that section of the sentence in a case which expounds the law and jurisprudence governing the ground on which the case is being tried.

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**Indication:** A factor in testimony, documentation or circumstances which directs the mind to a particular conclusion in such a way that while there is not moral certainty about the correctness of the conclusion there is some degree of certainty.

**Informal process:** See Summary process (Documentary).

**Inhabilitating:** Something which renders a person incapable of performing a particular action, e.g. a diriment impediment.

**Instruction:** The process of moving a case forward to the point where it is ready for briefs or oral argumentation by the advocates and defender. One is said to “instruct” a case when one seeks depositions of witnesses, documents and the like, the information necessary to clarify the issue in question. The word also indicates certain documents issued by Roman dicasteries, usually documents which set forth norms or directions on particular questions, e.g. *Provida Mater* issued in 1936 by the Congregation of Sacraments to aid tribunal officials in processing marriage cases.

**Intention, actual:** A determination of the will which is either formulated as such or at least adverted to so that it becomes the actual motive for or goal of a particular act.

**Intention, habitual:** A determination of the will which exists in a stable fashion so that, even though not necessarily formulated or even adverted to, it can be said to influence effectively the action performed either in the motive for performing it or the goal to be accomplished by the action.

**Interpellations:** A form of citation used in Pauline and Petrine Privilege cases in which the Respondent is asked:

1. Whether he or she will receive baptism, and
2. If not, whether he or she is willing to live peacefully with the Petitioner.

**Invalid:** Not valid; ineffective; as if the action had never taken place.

**Invalidating:** Something which makes an action invalid or null. For example, diriment impediments (which see) are said to be “invalidating impediments.”

***Ius in corpus:*** The right exchanged in marriage whereby the parties give to one another the right to sexual intercourse.

***Ius utile:*** (useful right) or “the right to use a right.” Although in theory a right can be possessed in a vacuum and a distinction can be made between the possession of a right and the freedom to exercise that right, it makes little sense in practice to say that a person has a particular right but is not permitted to exercise it. Consequently, if the “*ius utile*,” the liberty to exercise the right, is excluded, it is considered in practice to be the equivalent, of excluding the right itself.

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***Iris vigenis***: The current law. It is made up of the Code of Canon Law (which see) and all legislative provisions subsequent to the code; so, the entire body of Church law as it exists at a given time.

**Joinder of Issues** (Joining of Issues): See *Contestatio*.

**Judge**: An ecclesiastical office whereby one is empowered to preside over the gathering of evidence in controverted matters and render decisions on petitions presented to the court. The *Judicial Vicar* and *Vice Judicial Vicar* are judges in virtue of appointment to that office. They exercise the bishop's judicial power in such a way that they are considered in law to be the same moral person as the bishop, and there is, for example, no right of appeal to the bishop from the judicial decision of the *Judicial Vicar*. Unlike the vicar general, they remain in office during the vacancy of the See. A Collegiate judge is one who exercises the office as one of a panel of judges. The *Ponens* is the one who, in a panel of judges, is appointed to put the collegiate decision in writing.

**Jurisdiction**: See Competence.

**Jurisprudence**: A consistent pattern of court action in the application of law to practical situations. It is, in effect, the reasoning a court uses in applying the law to a situation and arriving at a decision.

**Law**: A reasonable ordinance or command made and promulgated for the common good by the one who has charge of the society.

**Libel**: See *Libellus*.

***Libellus***: A formal request presented by a person to a Church court asking that a marriage be declared null or that it be dissolved. It is usually to be in writing and should state, at least, the ground (which see) on which the request is made, the means of proving the case (briefly expressed), and at least sufficient detail so as to be able to identify the marriage in question, e.g. at least the names of the parties to the marriage.

***Ligamen***: The diriment impediment of prior bond, that is, the existence of a valid marriage bond, which prevents entrance into a new marriage.

**Local Ordinary**: See Ordinary.

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### **Marriage, classifications of:**

1. **Ratum:** A valid marriage of two baptized people which has not yet been consummated.
2. **Ratum et consummatum:** A valid marriage of two baptized people which has been consummated.
3. **Legitimum:** A valid marriage between two persons at least one of whom is non-baptized (not in present law).
4. **Valid:** A marriage entered according to proper form by two people who are capable of marriage and who are not otherwise bound by any impediment. Therefore, it is a marriage that conforms with Church law in all respects.
5. **Invalid:** A marriage that is not valid. Children born of such a union are illegitimate in ecclesiastical law unless at least one of the parties is in good faith.
6. **Putative:** A marriage which is not valid, objectively speaking, but which is entered into in good faith by at least one of the parties until both parties are aware of the nullity of the union. Children born of such a union are legitimate in church law.

**Moral certitude:** As a technical term, “moral certitude” is the measure of certainty which a judge is required to have in rendering a decision in a marriage case. It does not rule out the absolute possibility of the contrary being true but it certainly rules out the probability of the contrary. It excludes well-founded or reasonable doubt about the judgment to be rendered in the case in question. See the allocution of Pius XII in Wrenn, *Annulments* (3rd edition, pp. 135-138; 4th edition, pp. 128-132).

**Natural bond of Marriage:** See Marriage, *Legitimum*.

**N.C.C.B.:** The National Conference of Catholic Bishops.

**Non-constat:** The evidence in a marriage case is not persuasive enough to move the judge(s) to render an affirmative decision for nullity. However this does not necessarily mean that the marriage is valid. The negative decision is simply related to the evidence available at the time of the process.

**Non-consummation case:** This is the process conducted in cases where it is alleged that the marriage was not consummated and the Petitioner is seeking a dissolution of the marriage by papal power. The process is governed largely by norms established by the Sacred Congregation for the Sacraments, issued on March 7, 1972 as well as cc. 1697-1706.

**Notary:** One who is designated to perform the legal functions of recording and certifying the acts of cases or other ecclesiastical documents.

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**Occult:** The term has two meanings in canon law:

1. Something which is not widely known in the community;
2. Something which cannot be proved in the external forum.

To determine which meaning is intended in a particular law it will be necessary to read the wording of the law. In reference to marriage, however, the second meaning mentioned above is the one generally intended (c. 1074). The first meaning is operative in Penal Law (c. 2197 §4 of 1917 code; nothing explicit in current law).

**Ordinary:** Strictly speaking, in canon law the term can apply to a variety of individual offices, such as the bishop of the diocese, the vicar general, the vicar of a vicariate. In the context of the tribunal, it refers to the bishop of the diocese or any other person equivalent to him in law, such as the vicar of a vicariate apostolic in mission territory. Canon 134 lists those who are ordinaries: the pope, the residential bishop, and those equivalent to him in law, as well as major religious superiors of exempt orders and congregations.

**Ordinary power:** Authority or jurisdiction which is committed to a particular office by law in such a way that anyone who occupies the office automatically possesses that authority. It is said to be “proper” if it is exercised in one’s own name, e.g. the bishop of the diocese; it is “vicarious” if it is exercised in the name of another, e.g. the vicar general has ordinary vicarious jurisdiction and acts not in his own name but in the name of the bishop.

**Pauline Privilege:** A dissolution of a non-sacramental marriage in accordance with the doctrine stated by St. Paul in I Cor. 7. The conditions required to invoke the Pauline Privilege are that both parties to the marriage were non-baptized when the union was entered, one party subsequently wishes to receive Christian baptism, the other either does not wish to receive baptism or does not or will not live peacefully with the one who is to be baptized. The dissolution of the previous marriage is not effected by the granting of permission to invoke the Privilege but, rather, by the party’s entering a subsequent marriage after having been baptized. Permission to invoke the Pauline Privilege is granted locally and does not have to be obtained from Rome.

**Peregrinus(a):** A person who has a fixed abode in a given area but is now traveling in another area.

**Peritus:** An expert. In the tribunal context, the term usually refers to any person who, in virtue of professional training, offers specialized, testimony to the tribunal or who is called upon by the tribunal to offer advice in the interpretation of the acts. The term is most frequently used in reference to a psychiatrist, psychologist or other professionally trained person who reviews the acts of a case and offers a professional opinion about the capacity of a party of the parties for marriage. However, the term may properly be used in a broader sense than that.

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**Petition:** See *Libellus*. In a broader sense, it can mean any formal request, written or oral, whereby one asks a decision or favor. In the tribunal context the term is used in the more restricted sense.

**Petitioner:** The one who presents a *libellus* or petition.

**Petrine Privilege:** See Privilege of the Faith.

**Ponens:** The judge who commits to writing the decision of a collegiate tribunal. See Judge.

**Pre-libel evidence:** Evidence, including testimony, that is obtained or submitted prior to the presentation of a formal *libellus* (which see). See Extrajudicial Evidence for a reference to the manner in which such evidence is admitted into the acts so as to obtain probative force.

**Precedent:** Something that has gone before and establishes a standard of acting. In law, a precedent is a decision of another court, preferably a higher court, which guides a judge in applying the law to a particular set of circumstances. Canon law is not precedent law. Consequently, a judge does not have to be able to cite a precedent in order to justify his decision. In practice, however, tribunals tend to look at the practice of other courts, and particularly the S.R. Rota, for guidance.

**Presumption:** A conjecture about the truth in an uncertain matter. A presumption of law is one which is determined by the law. A presumption of marriage is one which is formulated by the judge based upon judicial experience. Generally, presumptions do not need to be proven but can be overturned by contrary evidence.

**Privilege of the Faith:** A dissolution of a non-sacramental marriage in virtue of and by papal power. The process for instructing such a case is governed by norms promulgated in December, 1973 by the Congregation for the Doctrine of the Faith, which is the Roman dicastery to which such cases are to be sent. These cases are frequently also called “Privilege of the Faith cases” or “Favor of the Faith cases.” The Petrine Privilege, strictly speaking, is the power under which the pope grants a dissolution of a non-sacramental marriage in “favor of the faith” (which see). See Favor of the Faith; Petrine Privilege.

**Probative value:** The extent of credibility given to a particular piece of evidence as a means of proving something.

**Procurator:** An appointed delegate of a party to a case, to whom is committed the power of presenting documents and other proofs on behalf of the principal. See Advocate. In American tribunals the same person usually exercises the functions of both advocate and procurator on behalf of the party to the case.

## VOCABULARY

**Promoter of Justice:** An officer of the court appointed by the bishop is required by law and whose function is to intervene in cases which may affect the public welfare. In marriage cases such an official would act as a surrogate Petitioner if one of the parties was legally barred from presenting a petition.

**Proof:** Objective evidence which gives rise to certainty about the existence of a particular fact or to a conviction about the correctness of a particular proposition. The term can be applied to the individual piece or pieces of evidence which gives rise to this certainty, or to the state of certainty itself.

**Provida Mater:** An official instruction promulgated by the Sacred Congregation of the Sacraments, on August 15, 1936, laying down specific norms for processing marriage cases. The document is intended to guide tribunals in this process and supplements and explains the provisions of the code (1917).

**Putative:** The word is taken from the Latin verb “*putare*” and literally means “to think.” It applies to marriages which objectively are null but which are entered in good faith by at least one of the parties. See Marriage.

**Quasi-domicile:** A stable residence in a place for over three (3) months or a residence established in a place with the intention of remaining there at least three (3) months.

**Ratum case:** See Non-consummation case.

**Rescript:** The written document which conveys the granting of a privilege, favor or dispensation.

**Respondent:** Literally means the one who responds to something. In a marriage case, it refers to the other party to the marriage, the validity of which is being impugned by the Petitioner.

**Rogatory Commission:** A request by one tribunal made to another tribunal to obtain the testimony of a party or witness who is living in the jurisdiction of the latter tribunal. Ordinarily, the tribunal receiving such a request will sub delegate a priest or other staff member of the parish within whose boundaries the witness lives to contact the individual and obtain the testimony as a delegated auditor.

**Rota, also Sacred Roman Rota, also S.R. Rota:** A court established in the Vatican and possessing worldwide jurisdiction. Ordinarily it handles petitions in second or third instance, following a first instance decision in a lower court. However, the Rota possesses jurisdiction to try cases in the first instance no matter in which part of the world they originate.

## VOCABULARY

***Sanatio in radice:*** Literally means a “healing in the root.” It is a legal fiction whereby something which is invalid is, through the action of one empowered in law to do so, now made valid with retroactive effect; that is, it is now considered by law to be valid from the very beginning or at least from the time of cessation of the factor which caused invalidity in the first place. The term is most frequently found in relationship to marriages which are invalid for some reason. However, it will also be found in reference to rectifying the invalid processing of marriage cases.

**Second instance:** The term can mean either the second level court for a particular area or the second level process of a particular case which is appealed from a **first** instance decision (which see).

**Sentence:** The formal written decision in a particular case.

**Signatura, also Apostolic Signature, also Supreme Tribunal of the Apostolic Signatura:** It is the Church’s supreme court. It has jurisdiction over the workings of the Church’s tribunals, oversees their activities and obtains annual reports from them. It is the Roman dicastery which can grant competence (which see) to a tribunal that otherwise lacks jurisdiction to try a particular case. It will sometimes act as a court of second or third instance in a marriage, or other, case committed to it by the pope. The Second Section of the Signatura also is a judicial forum which tries cases involving administrative acts of Roman dicasteries in cases which are outside the jurisdiction of the ordinary court system.

**Simulation:** It literally means a lie. Church law presumes that a person's outward actions or words are an accurate reflection of the person's thinking and intentions. Where, in fact, this is not the case, simulation is said to be present. This most often occurs in marriage cases where one of the parties is alleged to have had an intention against children, permanence, or fidelity.

**Solemn case:** See Formal case.

***Tempore non-suspecto:*** Literally means a “non-suspect time.” The term refers to information obtained at a time when the one who imparts the information does not have anything to gain by not telling the truth. It would refer, for example, to information given by one of the parties at a time before there was any question of petitioning for a declaration of nullity. Information obtained *tempore non-suspecto* is considered to have probative force.

**Testimony:** A statement given, either orally or in writing, by one of the principals to or by a witness in a case about the facts under dispute in the case. See Deposition.

**Tribunal:** A church court established to render judgment in judicial matters pertaining to ecclesiastical law. The ordinary church court system is competent in all matters except those pertaining to administrative acts. At times however even some judicial matters are reserved to tribunals of the Holy See.

## VOCABULARY

**Vagus:** The canonical term referring to one who has no fixed abode.

**Valid:** Effective. It refers to the situation in law of an action performed in accordance with the law and recognized as producing the effects stipulated by law.

**Validation:** The process whereby a marriage which is invalid or null is rectified so as to be recognized from thence on as a valid marriage. The ordinary method in church law for producing this effect is for the parties to exchange consent in the presence of a duly delegated priest and two witnesses. The renewal of the consent in this case is a new act of the will to rectifying a marriage which the parties know to be invalid or null.

**Vetitum:** Literally means a prohibition and is sometimes referred to by that name. Canon 1077, n. 1, of the code gives the local ordinary the power to order that a marriage be delayed for a fixed period if there is a good cause and so long as the cause exists. The prohibition does not have an invalidating effect. Therefore, if the marriage is entered in spite of the *vetitum* it enjoys the presumption of Canon 1060, that is, it is presumed to be valid until the contrary is proved, that it is illicit or unlawful. A tribunal also possesses the power to impose a *vetitum* as part of the process of a marriage case, but under the same restrictions as those for a bishop in an administrative matter.

**Virtual intention:** One that is not formed explicitly but is contained by implication in a particular thought-process or action as controlling the thought or action.

**Votum:** Literally means “will” or “wish.” There are three common uses of this term.

1. It refers to the document which the bishop is required to submit to Rome with each petition for a dissolution of a marriage in favor of the faith or on the basis of non- consummation. The norms for processing these cases indicate the areas the *votum* should address, including a statement by the bishop as to his recommendations on the petition.
2. The term is also used to refer to the statement which the judge-instructor on such cases submits in order to make his recommendations known.
3. The term also applies to the written opinion which each member of a collegiate tribunal is required to bring to the discussion by the judges preliminary to their making a decision.