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Immaturity And Marriage



It is always helpful to know what is going on in Rome. For those who are interested in keeping up with the evolving jurisprudence in the matrimonial tribunals of the world, I would like to present an excerpt taken from "Monitor Ecclesiasticus," 1968-II, p. 306-314, of a case of nullity before the Appeal Tribunal of the Vicariate of Rome. The English translation of the decision rendered by Father Mark Said of the Pope's Appeal Tribunal, is by Father James A. McEnery, S.J. The following is an excerpt from the law section of the decision where an annulment was granted on the basis of immaturity. None of the facts of the specific case are mentioned.

"Canon 1081: Marriage is contracted by the legitimately manifested consent of two parties who are qualified by law to enter into such contracts: no substitute for this consent can be supplied by any human power."

(MSGR. SAID'S decision reads as follows:) "Under this Canon (C. 1081), as in a seed, can be included all defects because of which a marriage can be declared null because of defect of consent, as it is called, whether it is a question of amentia, OR lack of knowledge of the nature of marriage, OR defect of discretion and maturity of judgment, OR error concerning the person, OR simulation, OR a condition, and so on. In other words, Canon 1081 establishes and determines what a marriage ought to include from the law of nature and from the positive law in a general fashion with special emphasis on the human act necessary for marriage, and the object of that human act."

"Canon 1082: The matrimonial consent cannot be validly given unless the contracting parties know at least that marriage is a permanent union between man and woman for the procreation of children. Ignorance on this point is not presumed in persons who have attained

the age of puberty."

(The decision continues:) "It is more than certain that if insufficient conceptual knowledge of the nature of marriage is possessed by a contracting party (i.e., he or she has no theoretical understanding of marriage as a permanent union involving sexual rights and obligations) the marriage must be declared null. It is also certain that speculative knowledge of the nature of marriage is not sufficient for the giving of a true matrimonial consent.

"Appreciative and estimative cognition, i.e., discretion and maturity of judgment on the part of the intellect is required in order that a deliberate matrimonial consent be given.

"SIMILARLY, IF the contracting party at the time of the celebration of the marriage were not capable, in a proportionate way of deliberation about the act being placed, i.e., did not have sufficient discretion and maturity of judgment which we call estimative knowledge of the nature of marriage, then the validity of the marriage will not be sustained, even if the contracting party did have conceptual knowledge of marriage. The reason is that this does not suffice for a true marriage consent, as we have seen."

For the record, I want you to know that in the Diocese of Rome, in the Vicariate Appeal Tribunal, annulments have been granted on the basis of immaturity. If the Pope's marriage court has allowed this development in jurisprudence as far back and even before 1968, the faithful in the United States should not be scandalized if the same principles are applied in their own local tribunal.

There is a difficulty in establishing the degree of immaturity and for this, in most cases, we must ask the parties to undergo psychological testing at their own expense to obtain a more scientific assessment of the facts, but it is interesting to know that this avenue is no longer closed in our Church courts.