

blema, hace algunas precisiones sobre la afirmación antedicha, bajo las siguientes rúbricas:

- I. Planteamiento de la cuestión.
- II. El Concordato español de 1851.
- III. La forma indicada por la Junta Mixta.
- IV. En tiempos menos antiguos.
- V. El Concordato de 1953.
- VI. Nombramiento de Administradores Apostólicos en España.
- VII. El caso del Obispo Auxiliar de Metz, después del Concilio.

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#### STUDIA :

FELICIANUS GIL DE LAS HERAS (Promotor Justitiae in Tribunali Rotae matritensis):  
*De executione sententiae provisoriae.*

Ostendere condendit Auctor iudicem "a quo", postquam sententia publicata est, require eius executionem provisoriam decernere. Ut talem conclusionem statuatur, facultates iudicis describit iure veteri vigentes; veterem disciplinam confert cum iure Codicis et concludit Codicem antiquam praxim processualem hac in re mutavisse. Principium "appellatione pendente nihil innovetur" valet a momento quo sententia publicatur et iudex qui eam tulit desinit esse iudex in hac causa. Appellationes in devolutivo iure veteri multae erant, sed Codex statuit principium quod tales appellationes tunc tantum admitti possunt cum norma legalis id expresse dicat. Executio sic dicta provisoriae iure antiquo ignota erat.

#### NOTAE :

JOSEPH RODRÍGUEZ (Iudex Tribunalis Metropolitanus Vallisoletani): *De quodam casu dissolutionis vinculi matrimonialis in favorem fidei.*

Quaestio est de solutione quadam matrimonii legitimi inter non baptizatos in favorem fidei tertiae personae baptizatae, quae recenter in dioecesi pampilonensi locum habuit.

Eduntur singula documenta processus; deinde Auctor ipsum modum procedendi explicat, iuxta Norma novas, in AAS non publicatas, S. Congregationis pro Doctrina Fidei (Prot. n. 2717/68).

Commentarium Auctoris sequentibus rubricis ordinatur: Proemium. Certitudo necessaria ad validum et licitum exercitium potestatis ministerialis. Ordinariorum et S. Sedis competentia. Competentia S. Congr. de Disciplina Sacramentorum. Id. pro Doctrina Fidei. Character normarum processualium matrimonio dissolvendo. Principia theoretica. Ordinariorum facultas. De Iudice instructionis delegato. De Vinculi defensore atque de Notario. Praesupposita demonstranda pro dissolutione. De favore fidei. Baptismatis defectus probandus. Probationes de validitate baptismi. Argumenta inconsummationis. Processus clausura. Dispensationis rescriptum.

NARCISSUS TIBAU (Iudex Auditor Tribunalis Rotae Matritensis): *De nominatione Episcoporum Auxiliarium in Hispania et extra Hispaniam adnotationes peculiare.*

Si fidem notitiis in ephemeridibus divulgatis praestemus, unum ex capitibus novo Concordato cum Hispania ineundo postulatis est quod Episcopi auxiliares libere ab Ecclesia sint designadi et sine praenotificatione, ut fit ubique terrarum. Auctor suam de hac re sententiam non aperit, sed facit adnotationes distinctas de praedicta assertione, sub titulis sequentibus:

- I. Quaestionis propositio.
- II. Concordatum hispanicum anni 1851.
- III. Modus procedendi a Commissione Mixta significatus.
- IV. Temporibus non adeo remotis.
- V. Concordatum anni 1953.
- VI. Nominatio Administratorum Apostolicorum in Hispania.
- VII. Casus Episcopi auxiliaris Metensis, post Concilium.

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#### STUDIES :

FELICIANO GIL DE LAS HERAS (Fiscal of the Madrid Tribunal): *The provisional execution of a sentence.*

The author seeks to demonstrate that the judge "ad quo" cannot grant execution of the provisional sentence once this is published. To reach this conclusion he studies what this judge could do under the old laws and compares this with the laws of the Code. He decides that the Code has changed the procedural practice in this respect. The principle "appellatione pendente nihil innovetur" has force from the moment of publication of the sentence and the judge who issued that then ceases to be a judge in this cause. Faced with the great number of appeals which existed in the old law, the Code has established the principle that this appeal "in devolutivo" is only possible when the law establishes it expressly. What is called "provisional execution of sentence" was unknown in the older legislation.

#### NOTES :

JOSÉ RODRÍGUEZ (Provisor of Valladolid): *A case of dissolution of marriage in favour of the Faith.*

The article treats of a case of dissolution of a legitimate marriage between two unbaptised persons in favour of the faith of a third party, a catholic, which took place recently in the Diocese of Pamplona.