



KEEPING OUR FEET ON THE GROUNDS

As mentioned in a previous issue, the annulment process is a legal process in which the Petitioner, the one seeking the annulment, must prove to the tribunal that the marriage in question is null. To do so, he or she must provide sufficient evidence to show why the marriage is null. The reasons for the nullity of the marriage are what we call the grounds.

The grounds for the nullity of a marriage refer to the presence of an invalidating flaw or the absence of something essential to forming a valid marriage contract at the time that it was “signed” – when the parties exchanged their vows, or consent. This flaw or missing element could occur in reference to the parties, the form, or the consent. In this issue, we will look at the parties and the form. Next month we will consider consent.

Crashing the parties

Because of the nature of marriage, both divine and canon law establish restrictions regarding persons

who can marry in the Church. These are called impediments, and there are several: age (below 14 for women and below 16 for men); impotence; prior marriage (unless the previous spouse is deceased or the marriage has been declared null); disparity of worship (Catholic marrying an unbaptized person); holy orders; public, perpetual vow of chastity in a religious order; abduction (kidnapping a woman to marry her); crime (murdering a person’s spouse so that you can marry the person); and blood or, in some cases, legal relationship (by adoption, for example). If one or more of these impediments applied to one or both of the parties at the time of consent, and they did not get a dispensation, then that would be a ground for declaring the marriage null.

So close, and yet, so invalid

Please consult the March issue of *Marriage Matters* for a discussion of the lack of canonical form, which occurs when a Catholic party fails to observe canonical form at all (marrying before a justice of the peace, for example). A different invalidating flaw occurs, however, when a Catholic appears to have observed canonical form but something essential to that form was missing at the time

of consent. This is called a defect of canonical form.

This can occur in a number of ways. For example, a visiting priest or deacon celebrating the marriage failed to get delegation to do so from the pastor. Another example might be that the marriage was celebrated by an authorized priest or deacon but without the presence of two witnesses. Another could be that the priest or deacon celebrating the marriage failed to ask for and receive the parties’ consent, or that two ministers were present and one asked for and received the consent of one party and the other minister asked for and received the consent of the other. All of these cause an invalidating defect in the form of the marriage and are grounds for declaring the marriage null.

That’s it for the parties and the form. We’ll review consent next time. Until then, keep the faith, love God’s people, and always honor the code!

