



## Concerning Issues: The Documentary Process

### The Documentary Process

Last month, the topic of declaring a marriage invalid due to lack of canonical form was covered. Those cases are handled by an administrative process that was described in last month's issue. This month the issue of diriment impediments, particularly prior bonds, and the documentary process will be discussed.

The documentary process can be used only when the impediment can be proven by a document or documents. For example, if the impediment of age is to be proven, a birth certificate would provide proof of the age of the party at the time of the marriage.

In the documentary process the formalities of the ordinary formal process are omitted. However, the Respondent must be cited and the Defender of the Bond must intervene. Also, the Tribunal must be competent to hear the case. Competency will be covered in next month's edition of *Concerning Issues*.

### Prior Bond or *Ligamen* is the Most Common Documentary Case

A diriment impediment is some fact or condition that prevents a person from marrying validly. A complete list of diriment impediments can be found in the June 2014 edition of *Concerning Issues*. The most common diriment impediment that the Tribunal handles is referred to as *ligamen* or prior bond. In these cases, a marriage can be declared invalid if a non-Catholic Respondent was in a previous marriage that also ended in divorce. These cases are often complicated due to multiple factors. The simplest case of prior bond can be illustrated this way (assume all parties are non-Catholic):

Ann and Bill marry and divorce;  
Bill then marries Cathy and that marriage also ends in divorce;  
Cathy now wishes to marry Doug, a Catholic who is free to marry.

Cathy, the Petitioner, asks the Tribunal to declare her marriage to Bill, the Respondent, invalid due to the fact that Bill was in a prior bond with Ann, the co-Respondent. Doug is not a party to the case.

In addition to the completed petition and questionnaire, the following documents are also required: (1) the marriage license application and record and (2) the divorce decree for the marriage between the Petitioner and Respondent; (3) the marriage license application and record and (4) the divorce decree for the marriage between the Respondent and co-Respondent; (5) two witness affidavits to establish the facts that none of the parties are Catholic and that the co-Respondent was still living during the Petitioner's marriage to the Respondent.

The other situations listed in this newsletter present other possible scenarios. These cases can be confusing. Please call the Tribunal if you have any questions.



### Canonical Conundrum

*Is it possible to do a documentary case for *ligamen* if the Petitioner is the one who has been married more than once?*

It is, but it is not common. This is one possible scenario: Amy, who is non-Catholic, was married twice, once to Bob and then to Charlie. Both of these marriages ended in divorce. Now Amy wants to marry Dave. After she and Charlie were divorced, Bob, her first husband, died. Since Amy was not bound to canonical form at the time of her first two marriages and since Bob was living for the entire time of her marriage to Charlie, Amy's marriage to Charlie can be declared invalid since she had a prior bond with Bob. Since Bob is now deceased, Amy is free to marry Dave.

### Often-Asked Canonical Question

*Can you do a *ligamen* if any of the parties are Catholic?*

If any of the parties are Catholic, rather than resolving the case through the documentary process for *ligamen*, the case would likely become either a lack of form or a formal process. Using the case listed above, consider these scenarios:

- (1) If Ann is Catholic and her marriage to Bill was not according to canonical form, their marriage would be invalid due to lack of canonical form. Since Bill's marriage to Ann was invalid due to lack of canonical form, he was free to marry Cathy. Therefore, Cathy would need to do a formal process to declare her marriage to Bill invalid.
- (1) If either Bill or Cathy are Catholic and they married outside canonical form, that marriage could be declared invalid due to lack of canonical form. If Bill and Cathy did marry according to canonical form, Cathy would again need a formal process.