

MARRIAGE & DIVORCE

- Jesus teaches about the sanctity of Marriage and God's Plan
 - Mt 5:31-32
 - Mt 19:1-12



DIVORCE

Mt 5: 31-32*

Bill of divorce. (Dt 24:1-4*)

- whoever divorces his wife,
unless **unlawful** causes her to commit adultery.
[RSV unchastity - KJV some uncleanness]
(Hebrew: dabar ervah - Gk: porneia)
- whoever marries a divorced woman,
commits adultery.

MARRIAGE & DIVORCE

- **Matthew 19: 1-12***
 - **A deadly Test**
 - A comment on **existing Mosaic law**
 - An **affirmation on the Divine Economy** for marriage
 - Gen 1:27 male and female - fruitful
Gen 2:24 man leaves F&M cleaves to Wife.
 - **Porneia** - remains undefined - but a strong hint that Shammai has the upper hand.
 - Those **incapable or who abstain** from Marriage
 - **Celibacy approved**

DIVORCE

- Question? How did Jesus view *Porneia*
 - The Catholic Church has always understood that the *Porneia* had to pre-exist the marriage ceremony.
 - Subsequent conduct like Adultery, for instance, did not necessarily make marriage unlawful.



BUT there are some nuances!

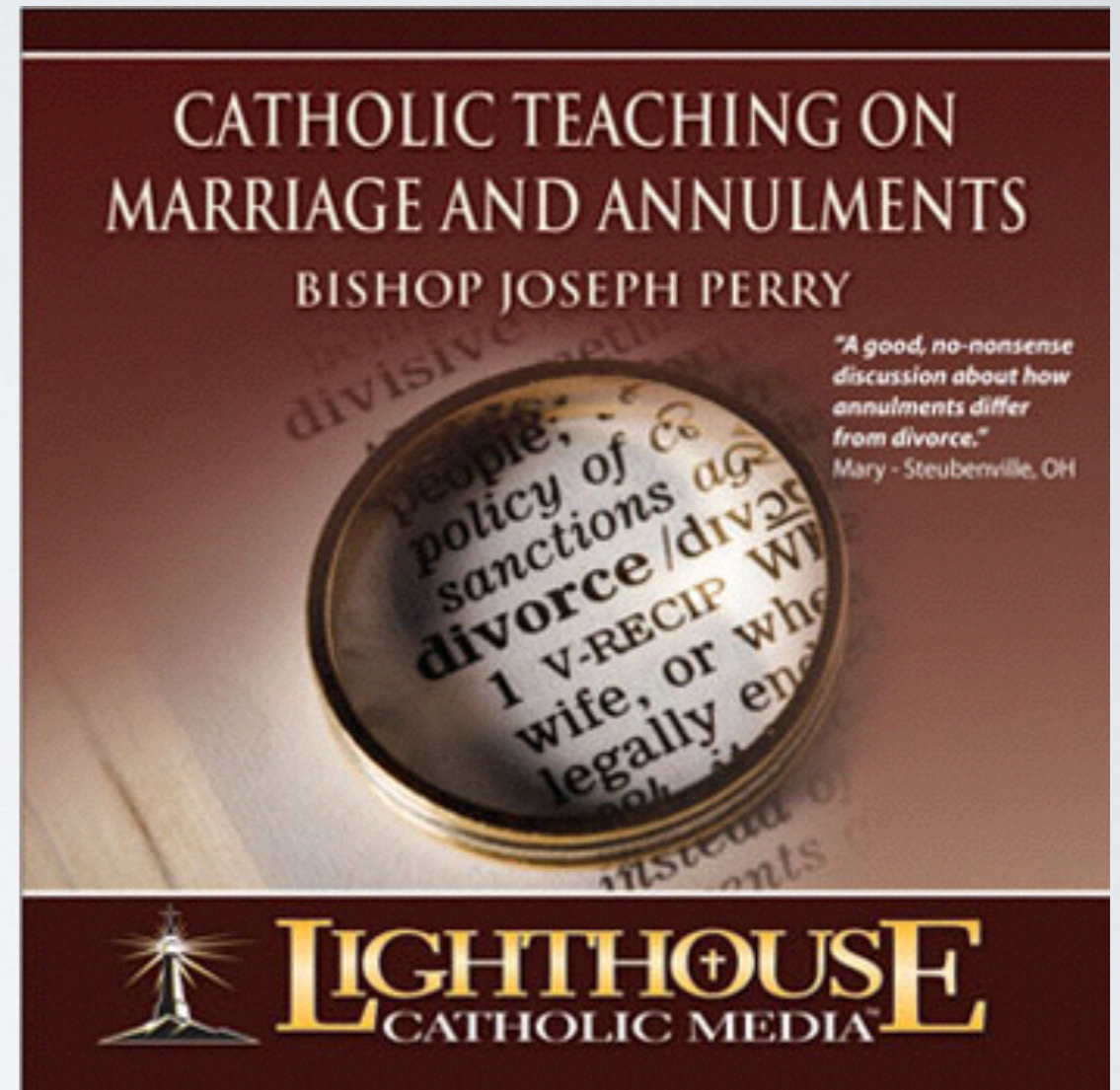
ANNULMENTS

Catholic Divorce?
Not at all

The Code of Canon Law is
the Church's juridical
determination of

Greek: Porneia

Hebrew: dabar ervah

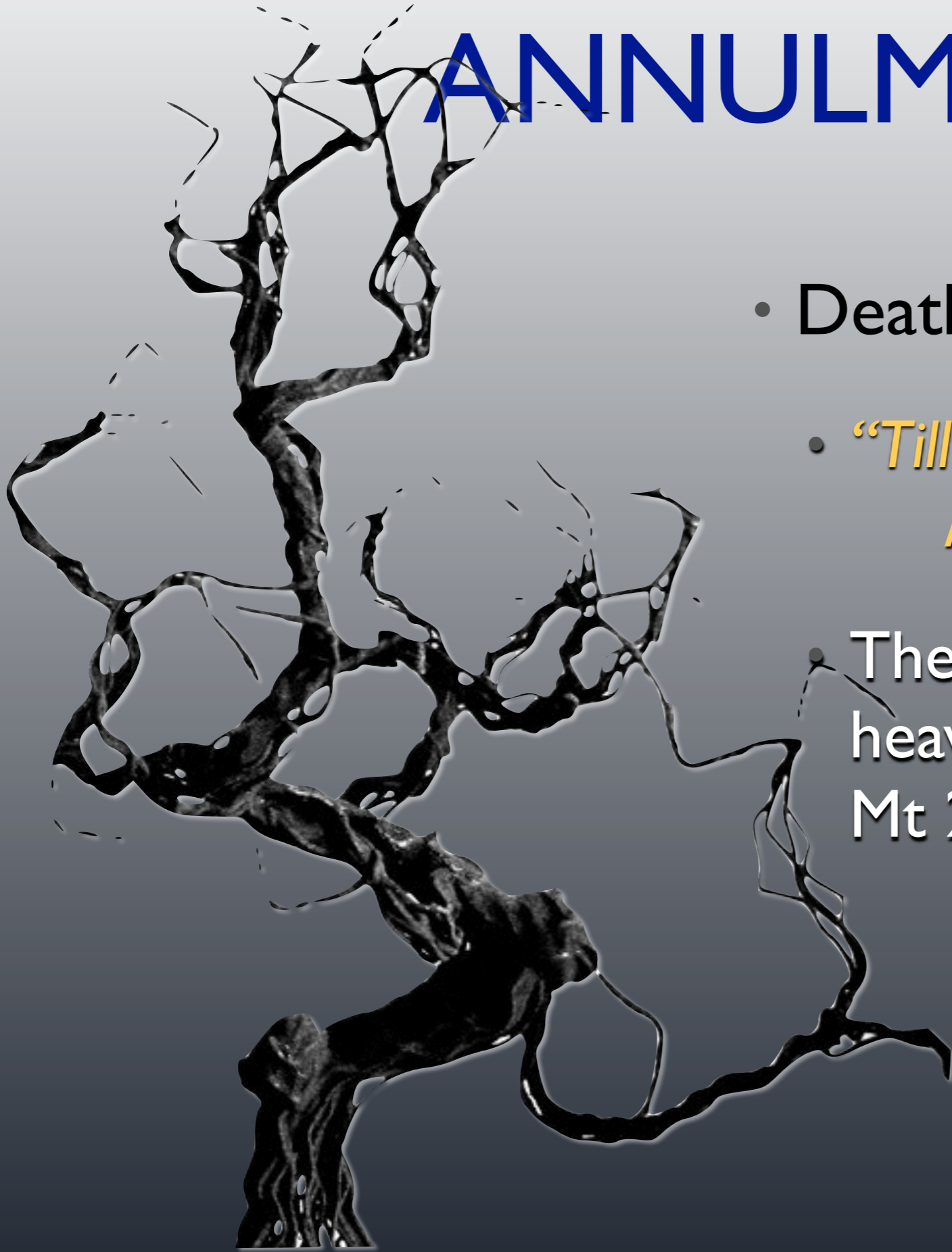


ANNULMENTS

- A valid marriage between two baptized people is a *sacramental* marriage, and once consummated, cannot be dissolved.
- If such a person divorces and remarries, that person is living in adultery - *objectively* speaking a state of mortal sin.
- Jesus was firm in this teaching.

ANNULMENTS

- Death ends a marriage.
 - *“Till death do us part.”*
Marital vow reflects this
 - There is no marriage in heaven as Jesus teaches in Mt 22:30.



ANNULMENTS

- “Thus a married woman is bound by law to her husband as long as he lives.” Rom 7:2-3
 - This teaching of course applies to either spouse. A Husband should not divorce his wife. | Cor 7: 11
- For those marriages between unbaptized people, a different rule applies. | Cor 7: 12-15*
 - Lets look at the unique case, where a divorce occurs due to a conversion to the faith.

ANNULMENTS

- Pauline Privilege permits two unbaptized persons who are married, to be divorced, and be able to remarry - **if** the objecting party is **NOT** the person converting to the faith.
- **Modern Day Example:** Two mormon persons are married in the Church of Jesus Christ of Latter Day Saints.
 - The Wife wishes to become Catholic, and the Husband objects and wishes a divorce, because he does not want to remain married to a Catholic wife. They divorce.
 - Under the Pauline Privilege, Wife could marry again in the Catholic Church.

ANNULMENTS

- **Petrine Privilege** extends the privilege to a marriage where one is baptized and the other is an unbaptized person. The objecting party can **NOT** be the person converting to the faith.
- **Modern Day Example:** **Two Pentecostals are married.** One is a member of the Assemblies of God, the other a member of the United Pentecostal Church.
 - One wishes to become Catholic, and the other objects and wishes a divorce, because he/she do not want to remain married to a Catholic. They divorce.
 - Under the **Petrine Privilege** the new Catholic convert could marry again in the Catholic Church.

ANNULMENTS

- What if the marriage between the two baptized persons was never valid?
- *God would not join a marriage that He knew invalid.* - especially if that fact was not fully understood or known to the parties as they were getting married.
- The annulment process - seeks to understand if the marriage was ever valid.

ANNULMENTS

- What if the persons were

If God never Joined
can man separate?

Mt 19:6

ptized

- *God would not join a marriage that He knew invalid.* - especially if that fact was not fully understood or known to the parties as they were getting married.
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ANNULMENTS

- Improper Form - an *Administrative Process*
 - A Catholic marries outside the Church.
Absent a dispensation, the marriage is Invalid - unless has renounced being Catholic.
 - Code of Canon Law requires an **affirmative step of renouncing** of the faith.
 - Not practicing for a while is not enough
 - Attending a different church is not enough.

ANNULMENTS

- Improper Form - an *Administrative Process*

Not unlike getting married in Nevada
with a California Marriage License.
Marriage is jurisdictionally invalid

- Code of Canon Law requires an affirmative step of renouncing of the faith.
 - Not practicing for a while is not enough
 - Attending a different church is not enough.

ANNULMENTS

- *Lacking sufficient use of reason (Canon 1095, 1°)*
 - One did not know what was happening during the marriage ceremony because of insanity, mental illness, addiction, or a lack of awareness.
 - *drunk or high - for instance; The Britney Spears Las Vegas marriage might fit this.*
 - *At time of exchanging consent*
 - *my brother Kenny can never marry*

ANNULMENTS

- *Grave lack of judgment concerning matrimonial rights and duties (Canon 1095, 2^o)*
 - one was affected by serious circumstances or factors rendering inability to evaluate either the decision to marry or the ability to create a *marital relationship*, aware of duties and rights.
 - *serious (grave) immaturity regarding a discretion of judgment for marriage. Inability to discern sufficiently to be bound.*
 - *mutual surrender and acceptance*

ANNULMENTS

- **Matrimonial Rights and Duties**
 - Obligation concerning **conjugal act**, as a bodily union and basis for procreation.
 - Obligation of **Communal Life and Love** - as an expression of the union between H & W.
 - **Mutual Well-Being** - inseparable from the obligation to provide an environment conducive to the reception and rearing of children.
- These are:
 - *“mutual, permanent, continuous, exclusive and irrevocable.”*

ANNULMENTS

- *Psychological incapacity to assume marital obligations (Canon 1095, 3^o)*
- At the time of consent, one was unable to fulfill the obligations of marriage because of a serious psychological disorder or other condition.
 - *This includes Psychosexual disorders.*

ANNULMENTS

(Canon 1095, 3°) Continued

- *“Since it is not possible for a person to generally lack incapacity to assume the duties of marriage, and still be psychologically normal, the cause of this nullity must be produced by causes that are of a psychological nature.”*
 - *eg.: PTSD or schizophrenia*
 - *or other psychosis seen to affect consent.*
 - *Pope St John Paul II and Benedict XVI concerns*

ANNULMENTS

- *Incapacity due to age (Canon 1083, § 1)*
 - A man cannot validly enter marriage before the completion of his 16th year. (Must be 16)
 - A woman cannot validly enter marriage before the completion of her 14th year.
 - *Invalid ab initio, as a matter of canon law. Not an issue of being licit (not just illicit).*
 - *Yet, because age as a category, belongs to human law, a dispensation can be granted prior to marriage.*

ANNULMENTS

- *Ignorance about the nature of marriage
(Canon 1096, § 1)*
- One did not know that marriage is a permanent partnership between a man and a woman ordered toward the procreation of offspring by means of some sexual cooperation.
 - *What do you mean you want kids?*
 - *What about senior citizens who marry knowing they are past child bearing age?*

ANNULMENTS

- *Incapacity due to prior marriage (Canon 1085, § 1)*
 - A person obliged by the bond of a previous marriage, even if it not consummated, invalidly attempts marriage.
 - The attempt is unlawful, even if the prior marriage be in reality invalid or null - so long as the attempt was made prior to such a juridical finding.
 - *Convalidation flows from this principle*
 - *Look for non-petitioning spouse who has been married before.*

ANNULMENTS

- *Error of person (Canon 1097, § 1)*
 - One spouse intended to marry a specific individual who was not the individual with whom marriage was celebrated. (For example, mail order brides; marrying first born - this rarely occurs in the United States.)
 - *Biblical example: Jacob and Leah instead of Rachel*

ANNULMENTS

- *Error about a quality of a person (Canon 1097 § 2)*
 - One spouse intended to marry someone who either possessed or did not possess a certain quality, e.g., *social status, marital status, education, religious conviction, freedom from disease, or arrest record*. That quality must have been directly and principally intended by the mistaken person.
 - Some mistake of fact is needed. *LOWER burden of proof than Fraud*. Yet, we marry persons not qualities, so something more than a simple statement of “*I would not have married if I had known...*”
 - *Must invalidate consent. eg.: One is a paroled felon*

ANNULMENTS

- *Fraud (Canon 1098)*
 - One spouse was intentionally deceived about the presence or absence of a quality in the other related to conjugal life. The reason for this deception was to obtain consent to marriage.
 - *Claims to be a frequent traveller CEO of an enterprise, in reality is a gadget salesman?*
 - *Husband actively hides inability to copulate?*

ANNULMENTS

- *Impotence (Canon 1084)*
 - Antecedent and Perpetual impotence to have marital intercourse invalidates. If doubtful as to permanence, marriage is not to be prevented, given proper consent.
 - *Sterility neither forbids nor invalidates a marriage.* (without prejudice to Canon 1098)
 - *What if Husband actively hides permanent inability to impregnate - claiming temporary condition?*

ANNULMENTS

- *Impotence continued (Canon 1084)*
 - Can a spouse consent knowing of the other's impotence?
 - One is a returning veteran wheelchair bound, seeking to marry his sweetheart, or
 - Both are elderly, and the affected spouse knows of the other's impotence.



ANNULMENTS

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- “The very wording of Canon 1084 § 1 - indicates that impotence is an impediment. Consequently it can not be dispensed.” *(Consent does not vitiate the prohibition against prior impotency)*



ANNULMENTS

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Remember

Marriage is more than deep friendship
It includes an intimacy that defines the relationship
as unique, among all others.

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ANNULMENTS

- *Baptized Catholic marries unbaptized other without dispensation by Ordinary (Canon 1086 § 1)*
- A marriage is invalid when one of two persons was baptized in the Catholic Church and has not by formal act defected from it, (*not apostate, heretic or schismatic per Canon 1364*) and the other was not baptized.
- Impediment must be dispensed per Canon 1125

ANNULMENTS

- *Dispensation by Ordinary (Canon 1125)*
 - The Local Ordinary can grant permission for a Catholic to marry a non-Catholic if:
 - **Catholic declares:** *is prepared to remove dangers of defecting from the faith; and, promises all children will be baptized and raised in the Catholic Church.*
 - **Other party** is informed of the promise of Catholic spouse
 - **Both are instructed** in purposes and properties of Marriage - which are not to be excluded by either.

ANNULMENTS

- *Consanguinity (Canon 1091)*
 - Marriage is invalid between those related to consanguinity in all degrees of the direct line, ascending or descending, legitimate or natural. Collateral line invalid up to 4th degree inclusive.
 - *Per commentary on Canon 1091 - There is room for a pastoral provision on a collateral line, (apart from brothers and sisters even if by adoption per Canon 1094), depending on cultural factors that might influence the family structure. The goal is to avoid unhealthy relationships within the nuclear family.*

ANNULMENTS

- *Affinity (Canon 1092)*
 - Marriage is invalid between those related by affinity in of the direct line.
 - *A man can not marry his daughter-in-law*
 - *A man could marry his brother's widow.*
 - *Relations by adoption are treated as if related by consanguinity. (Canon 1094)*

ANNULMENTS

- *Willful exclusion of children (Canon 1101 § 2)*
 - One spouse married intending, either explicitly or implicitly, to deny the other's right to sexual acts open to procreation. (*simulated vow*)
 - e.g., *Future husband got a vasectomy deliberately to frustrate wife's plans for children.*
 - *What about subsequent sterilization after 4 children, over the objection of the other spouse?*

ANNULMENTS

- *Willful exclusion of marital fidelity (Canon 1101 § 2)*
- One spouse married intending, either explicitly or implicitly, not to remain faithful.
(simulated vow)
 - *The intent to not be faithful was present at the time of the vow.*

ANNULMENTS

- *Future condition (Canon 1102 § 1)*
 - Marriage cannot be validly contracted subject to a condition concerning the future.
 - *e.g., one will be permitted to complete an education, income will be at a certain level, will remain in this area.*
 - *This is a conditional vow based on a future event, whose non-occurrence might therefore be prevented by some other future fact.*

ANNULMENTS

- *Present condition may or may not result in a valid marriage (Canon 1102 § 2)*
- A spouse attached a present condition to the decision to marry and that condition failed to materialize.
 - *e.g., I will marry you provided you promise to stop gambling, or stop taking drugs.*
 - *This is reliance on the promise has to go to the basis for consenting.*
 - *Validity turns on nexus to consent*

ANNULMENTS

- *Past condition may or may not result in a valid marriage (Canon 1102 § 2)*
 - Invalid if a spouse *required* a past condition as to the decision to marry, and that condition did not exist.
 - e.g., *Marriage provided fiancée never been convicted of a felony crime, or that still a virgin.*
 - *This is reliance on the fact the person had reason to believe the condition was true, even though it was a false assumption.*

ANNULMENTS

- *Force (Canon 1103)*
 - A spouse married because of an external physical or moral force that the person could not resist.
 - e.g., *She is pregnant and pressured to do right thing. Shotgun Wedding.*
 - *Vitiates consent - mental anguish and fear must be externally induced, otherwise person is in control of condition that impedes.*

ANNULMENTS

- *Error of exclusivity of marriage (Canon 1099)*
 - A spouse married believing that marriage was not necessarily an exclusive relationship.
 - *e.g., so called open marriage is invalid ab initio*

ANNULMENTS

- *Error regarding marital indissolubility (Canon 1099)*
 - A spouse married believing that marriage is not a religious or sacred relationship but merely a civil contract or arrangement.
 - e.g., *Do you want to get married with a Justice of the peace or a church?*

ANNULMENTS

- *Lack of proper consent during convalidation
(Canons 1157, 1160)*
- After a civil marriage, the couple participated in a Catholic ceremony and one spouse believed that
 - (1) they were already married,
 - (2) the Catholic ceremony was merely a blessing, and
 - (3) the consent given during the Catholic ceremony had no real effect.
- *e.g., It would be nice to get our marriage blessed.*

ANNULMENTS

- *Renewal of Marital Vows, affect thereof*
- A consent defect can be cured by a formal renewal of vows, during which a valid consent is communicated.
- *e.g., Two people have a marriage, about which if they separated - a ground for annulment might exist.*
 - *The nullity possibility might be extinguished by a subsequent vow consisting of a proper consent.*

ANNULMENTS

- *Renewal of Marital Vows, affect thereof*

- A contract
renewed
contract

Sneak Circuit to Validity
“Did you ever renew your vows?”

is

- *e.g., Two people have a marriage, about which if they separated - a ground for annulment might exist.*
 - *The nullity possibility might be extinguished by a subsequent vow consisting of a proper consent.*

ANNULMENTS

Getting Started

- Make an appointment with Deacon or Priest
- Fill out Paperwork
 - Identify Witnesses
 - Submit to Tribunal

