

**Prolegomena to Any Future Marriage Canon  
That Will Be Able to Present Itself as Biblical and Theological**

A Submission to the Commission on the Marriage Canon,  
Anglican Church of Canada

by

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This paper presents an argument for the amendment of the marriage canon in the form of a series of disparate thoughts and questions related to it. I have not read through many other submissions, and I hope that I am not repeating too many of the points others have made with greater eloquence and evidence. I pray that it might be useful to the Commission as it goes about its work. May God bless the members of the Commission, and General Synod 2016.

**1. The Change in the Anglican Theology of Marriage**

The fact is, the theology of marriage has changed over time in the Anglican Church. We need only look at the Book of Common Prayer (“BCP”) and the Book of Alternative Services (“BAS”) to see this.

In the BCP of 1549 we read:

DEERELY beloved frendes, we are gathered together here in the syght of God, and in the face of his congregacion, to joyne together this man and this woman in holy matrimonie . . . Duely consideryng the causes for the whiche matrimonie was ordeined. One cause was the procreacion of children, to be brought up in the feare and nurture of the Lord, and prayse of God. Secondly it was ordeined for a remedie agaynst sinne, and to avoide fornicacion, that suche persones as bee maried, might live chastlie in matrimonie, and kepe themselves undefiled membres of Christes bodye. Thirdelye for the mutuall societie, helpe, and coumfort, that the one oughte to have of thother, both in prosperitie and adversitie.

Thus, in brief, the purposes of marriage are 1) procreation, 2) chastity, or a remedy against sin (i.e. sexual relations outside of marriage), and 3) mutual society, help, and comfort. This order of purposes was maintained in the 1552, 1549, and 1662 BCPs, which would have been authoritative in any Anglican service held in Canada until 1918.

In the 1918/1921 Canadian BCP there is a significant change in wording:

Matrimony was ordained for the hallowing of the union betwixt man and woman; for the procreation of children to be brought up in the fear and nurture of the Lord; and for the mutual society, help, and comfort, that the one ought to have of the other, in both prosperity and adversity.

Thus the purposes enumerated are 1) hallowing the union of the man and woman, 2) procreation, and 3) mutual society, help, and comfort. Why is there this change? The word “hallowing” is much more positive than “a remedy against sin”. Perhaps it has to do with the raising up of the role of the officiant of the marriage, who offers a matrimonial blessing. Perhaps it has to do with the greater valuation of the blessing and what it might signify as a sacramental act (corresponding to the influence of Tractarians and Anglo-Catholics within Anglicanism). I would hope that the Commission has access to an historian who can illuminate them on this subject. In any case, a change did take place, and it suggests that procreation is no longer the primary reason for marriage. This change in wording was carried over to the 1959/1962 Canadian BCP.

The marriage service in the 1985 BAS presents another striking change:

The union of man and woman in heart, body, and mind is intended for their mutual comfort and help, that they may know each other with delight and tenderness in acts of love [and that they may be blessed in the procreation, care, and upbringing of children].

“Mutual comfort and help” is moved to first place from third. Language about “Hallowing” is dropped, and instead in second place sexual relations are described as “acts of love” which involve delight and tenderness (and arguably may actually include more than sexual), and procreation is demoted to third place, clearly optional depending upon the circumstances.

I do not believe that these are insignificant changes. Rather, they reflect the church’s mind about marriage over 450 years. Insofar as *lex orandi, lex credendi* is a fundamental character of Anglicanism, it suggests shifts in the Anglican theology of marriage. It is clear that over time the procreation of children is not the foremost aspect of marriage, but rather “mutual comfort and help”. Sexual relations, in 1552 a behaviour that is sinful outside of marriage but remedied within it, becomes in 1918 something which is hallowed (like the name of Our Father?), and in 1985 an act of love containing delight and tenderness.

The point I am making here is that as our theology of marriage has changed in the past, so we are not precluded from changing it with good reason in the present and the future.

And I haven’t even mentioned marriage after divorce . . .

## **2. Blessing is not Magical But Apocalyptic**

What happens when we bless something? One way of imagining it is that it is a bestowing or infusion of some kind of holiness on something. Thus, when a priest or bishop blesses a congregation, the blesser invokes God’s favour upon the blessed. The nuptial blessing is the climax of a wedding, after vows have been made and a symbol or symbols of the marriage have been exchanged. When someone sneezes we bless the person, as if some sort of exorcism was taking place. The English word “bless” appears to be a cognate with “blood”, suggesting some ancient connection with blood sacrifices and the benefits that flow from such. In Christianity when the bread and wine is sacramentally blessed at communion, we intentionally act in accordance with Christ’s command, and invoke the Holy Spirit to come upon the congregation and the elements, that they might be the body and blood of Christ.

But this is too close to magic – “Hoc est corpus” becomes “Hocus pocus”. It elevates the role of the officiant and diminishes the work of the people. Also, this idea of blessing – as a simple bestowing of God’s favour, working some kind of transformation in the thing or person(s) blessed, leads us down the route of fruitless arguments over the nature of that change (transubstantiation, anyone? receptionism?). Also, it fails to deal with the ubiquitous phraseology of scripture in which God’s divine self is blessed: *Bless the Lord, O my soul*” (Psalm 104.1) *“Blessed are you, O Lord”* (Psalm 119.12). If a blessing bestows some kind of holiness, or is about God’s favour, how does that fit when psalmist’s soul blesses God? Is anything added to God? Surely not!

Blessing is really about a recognition of the divine being present – either directly in the Lord God’s own self, or indirectly in creation. Thus, when a congregation is blessed, it is a communal recognition of the activity of God amongst the congregation, that whenever two or three are gathered Christ is present amongst them, and that the Spirit is at work both dramatically and subtly. The priest officiates at a communion service not as a magician who transforms bread and wine into the body and blood of Christ, but as the designated representative of both the people and bishop who on their behalf takes bread and wine, says the blessing, breaks the bread, and distributes it, the whole action of the people with the officiant being the transformative act that recognizes that when the community gathers and does this the presence of God is celebrated in the elements and in the community.

Blessing is not magical, but apocalyptic. *Ἀποκάλυψις* means “revelation”, and literally is “unveiling”. The last book of the New Testament is *The Revelation to John* and because it deals with the Day of the Lord and the terrible end of God’s enemies the word “apocalyptic” has a negative sense for most people. I’d like to reclaim “apocalypse” as a profoundly positive word for Christians, in the sense that God’s revelation is good news. When something or someone is blessed, the goodness of God in that thing or person is unveiled and revealed, not as some passive infusion of grace, but as a complex, dynamic interaction between the divine and creation.

So what happens in marriage? Surely, when the congregation gathers and a member of the clergy officiates, it is not they who effect the marriage, but the couple who are marrying. As Christians we recognize that God is at work within the couple. The ring is blessed, but as a symbol of the vows the couple have made, and of what God is doing with the two people. The couple receives a nuptial blessing, and again it is an apocalyptic revelation of God’s love working itself in the two who have become one.

I see blessing and sacrament on a continuum. We bless things, and we consecrate the elements of bread and wine in the eucharist. We bless animals and cars and ordain clergy and solemnize marriages.

We can come up with sharp definitions that would distinguish a blessing from a wedding. For example, when two people who happen to be in a monogamous, life-long relationship, have had a civil marriage, but are of the same sex ask for a blessing from a priest, we call it a blessing. When two people of different sexes make vows, exchange rings, and are blessed by a priest or bishop, then we will call it the sacrament of Holy Matrimony. Such definitions strike me as more political than theological. If it looks like a duck, quacks like a duck, walks like a duck, then why do we go to such lengths to deny its duckyness and say it’s really a horse? As members of the Commission may recall, the first draft of the rite for the Blessing of a Same-Sex Couple was rejected by the then bishop because it looked too

much like the *The Celebration and Blessing of a Marriage* in the BAS. I think that it says a lot that the clergy and liturgists involved had to have a second go at it in order that it might not offend those who would be pacified by the notional distinction between blessing and sacrament.

### 3. All Things are Lawful, but Not Everything Builds Up

Scripture says many things about marriage, sexual acts, and what we now name as “gender”. The question of interpretation is what to do with all of this.

My own hermeneutical stance is that of Paul in 1 Corinthians 7.12: Πάντα μοι ἔξεστιν, ἀλλ' οὐ πάντα συμφέρει. πάντα μοι ἔξεστιν, ἀλλ' οὐκ ἐγὼ ἐξουσιασθήσομαι ὑπὸ τινος. “All things are lawful unto me, but all things are not expedient: all things are lawful to me, but I will not be brought under the power of any.” (AV/KJV). Συμφέρει is also translated as “helpful”, “edify”, and “build up.” Paul boldly proclaims a radical ethical freedom in Christ Jesus, but clarifies that when acting out of this freedom the criteria of what is “helpful” or “builds up” to needs to be applied; if the criteria leads to being brought under the power of anyone or anything then it is not “expedient.” Paul explicitly applies this approach in his First Letter to the Corinthians to ethical questions regarding sex and food offered to idols, and it is clear to him that some things really do not build up: incest, sex with prostitutes, and the flaunting one’s freedom before those with greater scruples. He also appears to apply it to other issues – divisions in the church, lawsuits between believers brought before pagan judges, worship, and the exaltation of some spiritual gifts over others. Sometimes he struggles with the application.

Nowhere is this most obvious in chapter 7 of 1 Corinthians, when he discusses the marriage of women and men. Paul appears to have a continuum of sexuality, in the context of the nearness of the Day of the Lord. At one extreme end incest and sex with prostitutes is clearly bad, and at the other end celibacy (so as to be free to serve others), as he himself lived, was clearly best. In between was marriage. He grudgingly says it is better to marry than to burn, suggesting he was chagrined at his brothers’ and sisters’ insistence on conjugal sex. Also, despite a clear word from the Lord (i.e. an oral tradition ascribed to Jesus, placed in the mouth of Jesus in the Gospel according to Mark) that divorce is forbidden, he allows for believers to separate from non-believers, and judges that they “are not bound.” The impression one gets is that Paul is inventing this advice as he dictates it.

In the Bible we see several types of marriage, always between people of different sexes: monogamy, polygamy, and concubinage. The latter two appear only in patriarchal times and amongst the rulers of Judah and Israel. By the time of Jesus monogamy was normative, and in Ashkenazi Judaism polygamy was outlawed in the 11<sup>th</sup> century (and is virtually unheard of in the other branches of Judaism). Within the Hebrew Bible, then, the relationship between woman and man in marriage is the ideal. Once one is married sex outside of marriage is unacceptable. Pre-marital sex is not encouraged, especially among women - but this may have more to do with patriarchal values about women as possessions than any actual valorization of celibacy as such, as happened later within Christianity.

Within Christianity we do see the rise of a cult of virginity, higher than the traditional high status of marriage. Jesus appears never to have married, and Paul was

likewise an unmarried apostle (unlike Peter). The idea (ascribed to Jesus) that in the resurrected life men and women are not given in marriage may have influenced this trend.

So what are we to do with same-sex blessings? Again, given our radical freedom in Christ, what is helpful and expedient? Neither Paul nor Jesus was ever directly confronted with the question of whether marriage and sexual relations between same-sex Christians was acceptable. We can well imagine that, as 1<sup>st</sup> century Jewish men, they might not have been terribly impressed by the idea, but the fact is that we have no direct scriptural warrant against it. Perhaps such a scriptural lack is providential, for it may allow us at this time to say that whatever may have been the case in the past, now is the time to affirm that such relationships is helpful, does build up, and is expedient.

Some will say, however, that our freedom in Christ is constrained and guided by the moral law as contained within scripture. Article VII of the Articles of Religion states:

Although the Law given from God by Moses, as touching Ceremonies and Rites, do not bind Christian men, nor the Civil precepts thereof ought of necessity to be received in any commonwealth; yet notwithstanding, no Christian man whatsoever is free from the obedience of the Commandments which are called Moral.

By this argument, then, same-sex relations are explicitly forbidden in Leviticus 18 and 20, and Paul implicitly included this in his condemnation of fornication (ἀρσενικοῦται) in 1 Corinthians 1.9. I reply to such an objection by re-affirming the Pauline principle that, “All things are lawful unto me, but all things are not expedient: all things are lawful to me, but I will not be brought under the power of any.” The division of Torah into ceremonial, civil, and moral is alien to Jewish thought, and a relatively late Christian hermeneutical principle; it also begs the question as to what is moral and what is not. Arguably the prohibitions from Leviticus are grounded in language of ceremonial purity, not morality. The prohibitions likewise may have played an important role in civil differentiation between Israelites and others, as did dietary regulations. The Articles of Religion are not binding upon the Anglican Church of Canada; should 21<sup>st</sup> Century Anglicans “be brought under the power” of a medieval hermeneutic of Old Testament?

In the contemporary Anglican understanding of marriage the primary purpose is “mutual help and comfort”, and the second purpose listed in the BAS is “acts of love” i.e. sexual affection. Procreation is valued, but not as highly in the past, undoubtedly the result of a) birth control and the corresponding loss of inevitable procreation; b) the tendency in countries with rising incomes and educations to have lower birth rates; and c) the increasing number of seniors who are beyond having children. Scripture speaks powerfully about this erotic love that is now at the centre of marriage, nowhere more so than in the Song of Songs. Historically this was a book cherished by Jewish rabbis, celibate monastics, and sexual Puritans, as it was seen as an allegory of the love of God for his chosen people and the love of Christ for the Church. While the personages in the Song of Songs are male and female, there is nothing within those passages that in principle might not be also said by a lover to another of the same sex. With the normalization of same-sex relations and marriage by law and culture in Canada, this forces us to wonder whether the Anglican Church of Canada will continue to be a trailing indicator of our society, or whether our faith allows us to take a step forward in recognizing in the love of a same-sex couple the reflection of God’s love for us.

#### 4. In Canada We Have Several Types of Marriage

Marriage in Canada is complex. To begin with, marriage is a provincial jurisdiction, so each province (and the territories under the federal government) have their own rules and regulations. While they have tended to be similar to one another, significant differences exist, in particular between Quebec and the other provinces. Marriage is not only covered by “Marriage Acts” but also by “Family Acts” that deal with what happens when marriages break down. As well, issues of inheritance, property, pension benefits, and the like have significantly different rules depending on relations of marriage or their absence.

Perhaps the most significant fact is that we effectively have two types of marriage – what one might call “statute marriage” in which one is married by an official commissioned by the government, and “common law marriage” in which one’s living situation results in a “marriage like” relationship. Statute marriage is readily understood as requiring some sort of ceremony and registration with the government, and is effective the day of the ceremony.

Common law marriage is more complicated, largely because it has been established by case law first and then codified into statute. For the purposes of immigration the Government of Canada considers common law marriage to be established if one has been living in a marriage-like relationship for at least twelve months. The Canada Revenue Agency also recognizes twelve months of living together as establishing a marriage-like relationship, and further, if a couple living together adopt or naturally have a child, they are considered a family and in a marriage-like relationship regardless of the amount of time. Ontario, Alberta, and New Brunswick require three years of cohabiting to be recognized as common law marriage under their various acts; British Columbia and Nova Scotia require only two years. There is no true common law marriage in Quebec, as it is governed by a civil code, like most of Europe, but it does have “civil unions” which are virtually the same as traditional marriages.

Christian marriage in the Anglican Church of Canada today is invariably “statute marriage” although we also have *The Blessing of a Civil Marriage* in *Occasional Celebrations*. Historically the requirement that Christian marriage needs to be somehow regulated by the government or church is a recent phenomenon. “Until the twelfth century the Church (i.e. the Latin Western Church) held that marriage was valid if entered into by mutual consent and then sealed by sexual intercourse.”<sup>1</sup> Canon law of the Church of Rome, and then the canon laws of the reformed Church of England regulated marriage rather hit and miss until 1753, when the Marriage Act was passed by the Parliament of Great Britain for England and Wales, requiring all legal marriages to take place in churches (Scotland had its own laws, and well into the 20<sup>th</sup> century there were a variety of “irregular marriages” not sanctioned by the church which were recognized as legal). This carried over to colonial British North America and into modern times, and the remarkable popularity of civil marriages today is a recent phenomenon. To this day clergy officiating at marriages are,

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<sup>1</sup> Stephanie Coontz, *Marriage, a History: from Obedience to Intimacy, or How Love conquered Marriage* (New York NY: Viking, 2005), p. 106.

like civil marriage commissioners, licensed by the jurisdiction in which they minister, and act as registrars of marriage.<sup>2</sup>

Marriage, then, comes across as a vitally important institution both today as well as in the past. It is not just about love, mutual comfort and help, or sexual affection. As far as the law is concerned, it is about the creation of families, the conferring of rights and obligations (especially as concerns children), taxes, pensions, life insurance, inheritance, and what happens to assets if the relationship is dissolved. Hollywood stars and anarchic rebels may claim that “I don’t need a piece of paper to say I love you!” but the state says that it gets involved the minute a child is born or adopted, or a certain (variable) time has passed.

Given the rising numbers of cohabiting partners, the decline in persons wishing to be married in church buildings or by clergy, and the rise in the number of children born out of wedlock, it seems to me that the church needs to have some serious reflection not only on love, sex, and sexuality, but also on the complex human relationships we get ourselves into. We can try and emphasise our older understanding of marriage, but this may not be helpful as we move into an era when the majority of people we are trying to evangelise have not been married in church, and many are the product of what would be described as “non-Christian” marriages. Perhaps it is helpful to see marriage as apocalyptic and not magical, as an unveiling of God’s action already at work in a couple and a family.

Frankly, our theology of marriage is rather “thin.” We need to have what anthropologist Clifford Geertz would recognize as a “thick description.”

## 5. My Personal Position

I believe that it is right and good that the Marriage Canon of the Anglican Church of Canada be amended to permit two individuals to be married within the church, according to the law of the territory or province within which the marriage is held. The simple way to do this is to change the language within the canon so that it is not assumed that the persons marrying are not of different sexes or genders.

As a priest of the Diocese of British Columbia I have already blessed one same-sex couple, two men who had been living together for a quarter of a century. This was done with the permission of the bishop, and after the parish in which I ministered approved such blessings unanimously. The couple was married by a marriage commissioner earlier that day.

People who were at the General Synod in 2001 may recall that I stated on the floor that I was in favour of same-sex marriage, provided that General Synod authorized it. Since then a lot of water has gone under the bridge, and my views have evolved. If I were a bishop and had *ius liturgicum* I would empower any cleric within the diocese to go forward and marry same sex couples. Bishops within The Episcopal Church have already done this without waiting for an amendment to their Marriage Canon.<sup>3</sup> Given that the Canadian and

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<sup>2</sup> This is not the case elsewhere. For example, I presided at a wedding in New York State, and did not have to have a license. Officiants simply have to be a mayor, a judge, a marriage officer, a member of the clergy, or recognized as a spiritual leader of some community.

<sup>3</sup> Namely, the dioceses of: Bethlehem, Central New York, Connecticut, Long Island, Massachusetts, New Hampshire, Rochester, San Joaquin, Vermont, Washington, and

American churches are already condemned by conservative evangelical Anglicans in North America and by prominent ecclesiastics and provinces in the Anglican Communion, what do we have to lose? The bonds of affection have already been strained to the breaking point. I have personally dealt with the results of radical conservatives breaking away, despite great restraint by the bishop and synod of the Diocese of British Columbia around the issue of same-sex blessings.

Arguably the General Synod of the Anglican Church of Canada does not forbid same-sex marriage, but merely endorses different-sex marriage; if the church does not forbid something explicitly, can it condemn those who do it? I recognize that this is a radical position, but after encouraging restraint and instead receiving nothing but vituperation and schism from my more conservative brothers and sisters in Christ, I see no reason not to move forward.

However, I am not a bishop, but merely a priest who has sworn to follow the direction of my bishop. Thus, I will not move to preside at a same-sex marriage. My more measured recommendation is that the Commission prepare the amendments to the canon as requested, with the required theological rationale, and let General Synod make its informed decision.