# ‘THIS HOLY ESTATE’

The Report of the Commission on the Marriage Canon of the Anglican Church of Canada

September 2015

*Unless the Lord builds the house, their labour is but lost that build it.*

Psalm 127:1

# Dedication

The Commission on the Marriage Canon wishes to extend its profound appreciation for the leadership and counsel of Canon Robert Falby during his time as chair of the commission. The clarity of thought that Bob offered to the commission guided us through the challenges that the task presented. His knowledge of the church and deep commitment to its life and ministry, born of his many years of dedicated service as a diocesan chancellor, member of the General Synod and its prolocutor, were gifts to our work. His unexpected death just prior to completion of this report saddened us deeply.

With thankfulness for the life and witness of Canon Robert Falby, and for his leadership as chair of this commission, we commend this report to the Council of General Synod.

# Table of Contents

# 1 Introduction

In 2013 the General Synod passed a resolution (C003, which is included as an appendix to this report) directing the drafting of a motion "to change Canon XXI on marriage to allow the marriage of same-sex couples in the same way as opposite-sex couples, and that this motion should include a conscience clause so that no member of the clergy, bishop, congregation or diocese should be constrained to participate in or authorize such marriages against the dictates of their conscience." Such a motion will be considered by the General Synod in 2016.

The General Synod resolution directed that the preparation of this motion should, among other things, demonstrate that a "broad consultation" had taken place. To that end the Council of General Synod established a Commission on the Marriage Canon consisting of individuals who, in the view of the officers of the General Synod, demonstrated a capacity to hear and understand the theological diversity represented in the Anglican Church of Canada. The commission was supported in its work by a clerk who is a member of the General Synod's staff.

*"I feel caught between God and neighbour. If I support the existing canon, I risk stopping my ears to the voices of some of our LGBTQ siblings in the Lord. I take that to be a serious thing. But if I support a change to the canon, I risk stopping my ears to the voice of God as the church has heard it in the Scriptures."*

N. Wall, Qu'Appelle

The commission's terms of reference (which are included in the appendix) stipulated that its role was to recommend wording for the motion called for by the 2013 General Synod, as well as the wording for a conscience clause that would allow dissenting dioceses and clergy to opt out of authorizing or presiding at same-sex marriages. It was also mandated to prepare documentation demonstrating how such a change in the church's traditional teaching on Christian marriage could be understood to be scripturally and theologically coherent.

The commission had no authority to make decisions on the matter of same-sex marriage in the church. As a body created by and accountable to the Council of General Synod, its mandated role was to consult, to study, and to propose a way for the church to proceed in a manner consistent with the intent of the 2013 resolution. It lies ultimately with the General Synod, our church's

highest decision-making body, to determine if and how this process moves forward.

An important part of the Commission's mandate included inviting "signed written submissions on the matter of amending Canon XXI ("On Marriage in the Church") so as to provide for same-sex marriage in our church from any member of the Anglican Church of Canada who wishes to make such a submission." The commission therefore publicly invited submissions from members of the Anglican Church of Canada over a five-month period. The commission's terms of reference also specifically stated that, "In order to ensure the credibility of the commission and the transparency of its work, all submissions to the Commission will be posted on the national church's website."

As individual submissions were received and reviewed by the commissioners, they were posted on a dedicated section of *anglican.ca* in the order in which they were received. Other contributions were solicited from dioceses, theological colleges and seminaries, specialized experts, and full communion and ecumenical partners, and were also posted as they were received. A more detailed summary of the submissions is included in this report.

On four occasions the members of the commission gathered for two-day face-to-face meetings. These were supplemented by several conference calls and continuous collaborative work online. In-person meetings always included a celebration of the eucharist. Whether gathered to work face to face or virtually, the commission was continually grounded in prayer, and the commissioners are deeply conscious and grateful for the many across this land who have held them and their work in prayer.

What follows is the commission's best effort to fulfil its mandate, to respect its terms of reference, to reflect the diverse voices that were heard, and to grapple with the biblical, theological, pastoral, canonical, legal, moral, ecclesiological, and ecumenical dimensions of this issue—endeavouring all the while to be

attentive to the leading of the Holy Spirit. It was a multifaceted task the commission's late chair, Canon Robert Falby, once described as "daunting."

The chapters of the report reflect the different aspects the 2013 General Synod resolution prescribed be addressed: broad consultation, the Solemn Declaration, a conscience clause, and biblical and theological rationale. Perhaps unsurprisingly, the last of these forms the longest and most detailed chapter. It concludes by attempting to fulfil the General Synod resolution's requirements by offering different "models for understanding same-sex marriage."

Included in the margins of many pages of the report are quotations germane to what is being discussed in the body of the text. These comments are drawn from some of the nearly 250 submissions the commission received from individual church members, specialized experts, institutions, organizations, and ecclesial partners.

The commission offers this report, the fruit of its labour, to the Council of General Synod, along with its prayers, as our church enters the next stage of discernment on this question.

# 2 Consultation

In initiating this process, the General Synod directed that the commission demonstrate "broad consultation" in its work. In that spirit, the Commission invited input not only from individual members of the Anglican Church of Canada, but also dioceses, parishes, theological colleges, legal specialists, and our full communion and ecumenical partners. All of the submissions referred to below can be viewed in their entirety on the commission's webpage: **http://www.anglican.ca/about/ccc/cogs/cmc/submissions.**

## 2.1 Individual Submissions

Members of the Anglican Church of Canada were invited to make contributions to the work of the commission. From April 28 to September 30, 2014, 223 submissions were received from individuals from 26 dioceses, all of which were posted on the Anglican Church of Canada's website. We heard from Anglicans all across Canada: voices identifying themselves as lay and clergy members, gay and lesbian, young people and seniors, and Indigenous Anglicans. We also received submissions from diocesan and parish groups, from institutions and organizations related to the church, and from theological colleges.

*"It shouldn't be up to me or any other layperson to decide what is and what isn't God's revealed truth. The fact that I have to write this letter to defend one of the most fundamental doctrines of the church as made clear by Scripture, tradition and reason is disheartening to say the least."*

J. Brown, New Westminster

The commission's mandated task was to bring to the 2016 General Synod particular proposed amendments to the canon on marriage, along with background and rationale for those proposed changes. The submissions process was therefore not considered a kind of referendum on the marriage question, and no tally of comments "for" and "against" was kept. The commission prepared a set of guiding questions to assist individuals in the preparation of their submissions, but contributors were free to focus their comments as they wished. A number of substantive submissions were received. The sidebars in this report show some of the breadth of what was heard. Specialist comments on the Solemn Declaration and on the idea of a conscience clause were also solicited.

## 2.2 Full Communion and Ecumenical Partners

Conscious that any decision the Anglican Church of Canada makes about marriage will have implications beyond our own church, submissions were invited from our full communion partner, the Evangelical Lutheran Church in Canada, from the Anglican Communion, and from ecumenical partners with which we are currently engaged in formal dialogue.

The response from the **Evangelical Lutheran Church in Canada** (ELCIC), a letter from National Bishop Susan Johnson, outlined the process by which that church adopted a Social Statement on Human Sexuality in 2011, after six years of theological reflection and formal discernment. The policy permits pastors to, "according to the dictates of their consciences as informed by the gospel, the scriptures, the ecumenical creeds and the confessions of the Evangelical Lutheran Church, preside at or bless legal marriages according to the laws of the province within which they serve," after consultation with a congregation's leadership.

*"As your full communion partner, the Evangelical Lutheran Church in Canada offers our prayers, support and encouragement to the Anglican Church of Canada in all aspects of your participation in God's mission and in your life as a faithful church. This is most certainly true as you deal with the often difficult and tense matter of the understanding of marriage."*

Evangelical Lutheran Church in Canada

Bishop Johnson's letter goes on to assure us that the ELCIC fully respects the decision-making processes that need to take place in the Anglican Church of Canada and "will respect the decisions of General Synod no matter what they are." Time was also set aside at the October 2014 meeting of the Joint Anglican-Lutheran Commission, the body that monitors and supports our full-communion relationship, for representatives of the ELCIC to relate the experience of their church's decision to allow its pastors to preside over same-sex marriages.

The question of the revision of the marriage canon formed part of the discussions of the January 2015 meeting of the theological dialogue between our church and the **United Church of Canada** (UCC). In 2003 the United Church formally called upon the federal government to expand the definition of marriage to include same-sex couples. Since the legalization of same-sex marriage in 2005, UCC clergy and congregations so desiring are authorized to provide such weddings.

United Church members of the dialogue shared their own experiences of how such decisions about human sexuality have been experienced by their denomination over the past 30 years. There was an assurance that whatever decision to the Anglican Church of Canada makes with respect to same-sex marriage, our longstanding relationship with the United Church of Canada will be unaffected.

The **Roman Catholic Church** is the Anglican Church of Canada's longest-standing ecumenical dialogue partner. The Anglican-Roman Catholic Dialogue of Canada (ARC), which has been the official forum of theological encounter between our two churches since 1971, spent a significant amount of time and energy on the marriage question, producing a nine-page contribution to the commission.

*"For one church to invite an ecumenical partner into an internal discussion of this kind is an extraordinary gesture of deep trust between our churches."*

Anglican-Roman Catholic Dialogue of Canada

ARC highlighted the "substantial convergence" Anglicans and Roman Catholics had achieved on the doctrine of marriage during their more than four decades of dialogue, while at the same time acknowledging that the agreed statements giving voice to this convergence are still in the process of being received by our churches.

The current conversation has left Roman Catholics wondering if our churches' previous common understanding of marriage is now in doubt. "If same-sex marriage becomes possible in the Anglican Church of Canada," the dialogue asked, "what then becomes of the enduring meaning or value of the distinction between male and female, and of procreation as one of the ends of marriage? How would the distinctiveness be maintained?"

Questions were also raised about the manner in which this decision is being made. What sources of authority are being drawn upon? Has detailed biblical and theological study been conducted? What is the role of bishops in this discernment? Has there been sufficient time and consultation to determine whether such a change to the marriage canon truly reflects the *sensus fidelium*? How much impairment of communion with

other Anglicans throughout the world is the Anglican Church of Canada willing to bear?

The dialogue acknowledged that both Anglicans and Roman Catholics are seeking "an intelligent, faithful, and pastorally sensitive response" to this "complex situation for marriage and family life," as together "we search for answers to questions we had never imagined."

While Roman Catholics desire to remain in dialogue with our church, whatever the outcome of our discernment on same-sex marriage, it was noted that "any divergence on the doctrine of Christian marriage, which our dialogue has until now presented as a matter of fundamental convergence, would weaken the very basis of our existing communion, and weaken the foundations upon which we have sought to build towards fuller ecclesial communion."

## 2.3 Anglican Communion

At the request of the Commission on the Marriage Canon, the Anglican Communion's Inter-Anglican Standing Commission on Unity, Faith and Order (IASCUFO) placed the matter of the revision of the marriage canon on the agenda of their December 2014 meeting, and sent a letter expressing their gratitude that the Anglican Church of Canada had taken the time to consult with other churches before taking any step. One of the mandates of IASCUFO is "to assist any province with the assessment of new proposals in the areas of unity, faith and order, as requested."[1]

*"The fact that the Anglican Church of Canada has not made a national synodical decision about the blessing of same-sex unions or same-sex marriage has given space for the rebuilding of fragile relationships across the Communion."*

Inter-Anglican Standing Commission on Unity, Faith and Order

The members of IASCUFO, while representing a variety of contexts and positions on the issue, cautioned that such a change by one member church "would cause great distress for the Communion as a whole, and for its ecumenical relationships. Members of the Commission are unanimous in urging you not to move beyond your present policy of 'local option.'"

[1]See http://www.anglicancommunion.org/identity/doctrine/iascufo.aspx.

Consultation with the wider Anglican Communion on this matter represents our church's commitment to live into the principle of "mutual responsibility and interdependence in the body of Christ" first articulated at the Anglican Congress held in Toronto in 1963, which named "deep and deliberate involvement in one another's affairs and life" as a necessary aspect of life as churches in communion.[2]

Resources available to us from other parts of the Anglican Communion that have in some way dealt with similar questions as this include a series of papers prepared for the Church in Wales, the Church of England's Report of the House of Bishops Working Group of Human Sexuality ("The Pilling Report"), the Episcopal Church's resource on marriage, *Dearly Beloved*, the report of the Commission on Doctrine and Theological Questions of the Anglican Church in Aotearoa, New Zealand and Polynesia, papers from the Inter-Anglican Liturgical Consultation of 2009, and the Anglican Communion's Bible in the Life of the Church initiative.

*"There are Anglican churches in countries in which homosexuality is illegal, even severely punishable. The Anglican churches there have said very little publicly about this. We have not disowned them because of this."*

M. Bull, Nova Scotia & Prince Edward Island

## 2.4 Anglican Church of Canada Indigenous Voices

At its November 2014 meeting the commission welcomed National Indigenous Anglican Bishop Mark MacDonald and Bishop Lydia Mamakwa of the Indigenous Spiritual Ministry of Mishamikoweesh. They brought with them a letter, signed by themselves and Bishop Adam Halkett of Missinipi (in the Diocese of Saskatchewan) as a way of beginning the conversation between the commission and Indigenous Anglican communities. The submission, they said, was the result of their having "meditated on Scripture, listened to what our elders have to say, and thought about the traditional ways of our peoples."

*"At present, we do not hear our concerns and approach in either side of this very strained discussion."*

Anglican Indigenous Bishops

The bishops acknowledged the breadth of opinion among Indigenous people, describing for the commissioners the

[2] See "Mutual Responsibility and Interdependence in the Body of Christ" at http://anglicanhistory.org/canada/toronto_mutual1963.html.

predominant understanding of marriage in their communities, which is viewed as "a ceremony of the community and the primary place where we enact our understanding of Creation and the relationship of God to the universe." They acknowledged the presence of gay and lesbian people in Indigenous communities, who are "not only worthy of our pastoral care and welcome; they are our brothers, sisters, children, and elders." While there is historical evidence of "protocols of welcome and acceptance of homosexual members" in many Indigenous communities, the bishops said, "we see little evidence that these practices were thought to be similar to marriage."

The bishops also strongly urged that Indigenous communities must be allowed to decide and rule on these matters on their own. "It is no longer acceptable to impose Western cultural questions and approaches on our societies, as if they were another segment or faction of a Euro-North American whole, either needing to be updated, tolerated, or assimilated into the larger whole," the bishops wrote.

Should the Anglican Church of Canada modify its understanding of marriage to include same-sex couples, the bishops said, "there will be an extended conversation among our communities regarding an acceptable way forward," the results of which "we cannot predict." They did, however, suggest that the predominant view seems to be that Indigenous Anglicans could "disagree with the larger church on these matters, as long as our societies, communities, and nations have the acknowledged and welcome freedom to act on their own."

Whatever the outcome, the Indigenous bishops wrote, "We promise to continue in a spirit of reconciliation and conversation with any who are willing to join us in the fellowship of Christ's disciples."

## 2.5 Anglican Church of Canada Gay and Lesbian Voices

Because the question of same-sex marriage is of obvious special concern to gay and lesbian Anglicans, the commission sought the input of this particular constituency within our church.

Some individuals who made submissions to the commission identified themselves as gay or lesbian. A contribution was also sought and received from Integrity Canada, an organization that has been an advocate for gays and lesbians within the Anglican Church of Canada since 1975.

In a written submission to the commission, a representative of Integrity Canada indicated the group's strong support for a canonical amendment authorizing same-sex marriage, stating that the canon's current description of the purposes of marriage "is equally applicable to same-sex couples and opposite-sex couples." Integrity Canada also supports the inclusion of a conscience clause for clergy who do not wish to preside at same-sex marriages, noting, "It has always been the case that clergy can, for their own reasons, refuse to marry any couple."

*"[W]e urge you to provide draft legislation that makes such marriages available to all couples. Then the church will have moved closer to providing all the sacraments for all the baptised."*

Integrity Canada

# 3 Solemn Declaration

The General Synod resolution of 2013 stipulates that the proposed motion to change the Marriage Canon will also include documentation that "explains how this motion does not contravene the Solemn Declaration."

## 3.1 Summary

The Commission on the Marriage Canon sought contributions from Anglicans across Canada, including specific invitations on the Solemn Declaration. After considering the submissions and reviewing other relevant materials, including legal decisions citing the Solemn Declaration, it is the opinion of the commission that the proposed change does not directly contravene the Solemn Declaration. It is, however, the prerogative of the General Synod to ultimately determine whether the proposed change is "in harmony with the Solemn Declaration."

## 3.2 Exploration

The Solemn Declaration of 1893 (which is included as an appendix to this report) was created to establish the relationship between the Church of England in the Dominion of Canada and the Church of England in light of the diverging political and legal structures that frame our existence. The desire for continuity with our historic roots in the Church of England and its theological and doctrinal heritage were enshrined in the Declaration as a way of anchoring the life of the Church in Canada.

*"It would be a serious misreading of the Solemn Declaration, or its predecessor Declarations of Principles, to suggest that they were intended to restrain future action."*

A. Perry, Edmonton

The challenge before us concerns the degree to which the Solemn Declaration limits future definition and interpretation of doctrine within the Anglican Church of Canada. This challenge is contained in the expectation of the Declaration of Principles of the Anglican Church of Canada that the General Synod has jurisdiction "in the definition of the doctrines of the Church in

harmony with the Solemn Declaration adopted by this synod."[3]

To be in harmony implies a concordance or fitting together such as that based on rules of tonality in musical theory rather than an identical correspondence. However, the definition of "harmony" remains the question. Although there can be tensions and dissonances in harmonic progressions, perpetual dissonances are not termed "harmonious." What level of dissonance and tension is acceptable within a continued harmony with the Solemn Declaration?

The degree of harmony is explored in the following paragraphs through examining sections of the Solemn Declaration in the light of life of the Anglican Church of Canada and its continued relationship with the Church of England and, by extension, the Anglican Communion.

## 3.3 Doctrine

What does it mean to be "in harmony" with "teaching the same Word of God" and "to hold the Doctrine, Sacraments and Discipline of Christ as the Lord has commanded in his Holy Word"? For some, the move to expand the definition of marriage to include same-sex couples is inconsistent with the scriptural injunctions of Mark 10, Genesis 1 and 2, and the biblical analogy of marriage with the relationship between Christ and the church as that of groom and bride. Therefore to change the marriage canon would not to be "in harmony" with teaching "the same Word of God." For others, this move would be consistent with other streams of biblical witness and therefore would be seen as sufficiently consistent with the Solemn Declaration.

Anglicans have lived with diverse approaches to scripture read and interpreted by the community in dialogue together.[4] We do

[3] See 6(i) of the Declaration of Principles at http://images.anglican.ca/pdf/handbook/102_Declaration.pdf.

[4] See paragraphs 4-7 of the *St. Michael Report* of Primate's Theological Commission of the Anglican Church of Canada at http://www.anglican.ca/primate/tfc/ptc/smr/. For example, the *Book of Common Prayer* contains prayers for those who serve "in the Queen's forces" (pages 33, 51), as well as propers for Remembrance Day (page xlviii). Historically a number of churches have ties to (and display the banners of) military regiments. Anglicans also serve as

not have a consensus in this area. The members of the General Synod will need to discern whether this change is sufficiently rooted in the "same Word of God" and discern its relationship to "all things necessary for salvation."

The Solemn Declaration states, "We are determined by the help of God to hold the Doctrine, Sacraments and Discipline of Christ … as the Church of England has received and set forth in the *Book of Common Prayer*..." It is in this section that the meaning of the Declaration in relation to the doctrine, sacraments, and discipline becomes more pointed.[5] If this were to mean that no changes could be made then the subsequent revisions of the Prayer Book in Canada and changes to confirmation, marriage, ordination would be equally inconsistent. The General Synod has seen fit to issue two prayer books over the last 117 years since the Declaration was adopted: the 1918 and 1962 revisions of the *Book of Common Prayer* as well as the *Book of Alternative Services*, which has in many cases become the primary source for worship. They are not identical to the prayer books of the Church of

England (which has also undertaken revisions) but do maintain the doctrine, shape, and essential characteristics of Anglican liturgy.

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military chaplains. Yet there are Anglicans who claim that "Jesus' teaching is incompatible with the waging of war" and "that a Christian church should never support or justify war." (See, for example, http://www.anglicanpeacemaker.org.uk.) During the struggle against apartheid, the Anglican Church in Southern Africa had pacifist bishops (Desmond Tutu) and priests who had joined the armed resistance (Michael Lapsley). Each recognized the other as Christian and Anglican, yet the disagreement was profound.

[5] In a submission to the commission, Bishop Stephen Andrews raised the question of whether changing church's doctrine of marriage differs from attempting to change a creed. (See http://www.anglican.ca/wp-content/uploads/2014/05/9-23-2014-Stephen-Andrews-Solemn-Declaration.pdf .) The *St. Michael Report* (paragraph 10) noted that the blessing of same-sex unions is not a matter of core doctrine in the sense of being creedal. See also resolution A184 of the 2007 General Synod, which states: "That this General Synod accept the conclusion of the Primate's Theological Commission's St. Michael Report that the blessing of same-sex unions is a matter of doctrine, but is not core doctrine in the sense of being credal." This is also considered in the biblical and theological section below (section 5.2.3).

Although a challenge was made over the use of the Book of Alternative Services for an episcopal ordination in 1986, the final judgment of the Supreme Court of Appeal for the Anglican Church of Canada concluded:

> *"It can be further stated that the Solemn Declaration committed the church to maintain the substance of 'the Doctrine, Sacraments and Discipline of Christ.' This undertaking in no way requires the use of any specific form of worship or words. It is our conclusion that, in substance, the authorization and use of* the *Book of Alternative Services is consistent with the Solemn Declaration in that its authorization and use does not impair 'the Doctrine, Sacraments and Discipline of Christ."*[6]

In addition, since 1897 the Anglican Church in Canada has made changes to discipline and sacramental practice in such areas as divorce and remarriage (1969), the ordination of women as priests (1976), and the reception of holy communion by children prior to confirmation (1977). None of these changes has been deemed to be in contravention of the Solemn Declaration even though the Church of England had not made those changes at the time they were implemented by the Canadian church.[7] The Church

[6] Supreme Court of Appeal for the Anglican Church of Canada decision, June 9, 1989. Accessed through the Archives of the General Synod of the Anglican Church of Canada.

[7] In a paper submitted to the commission, Archdeacon Alan Perry notes that "the General Synod has never understood itself to be restrained from developments in doctrine, worship and discipline is demonstrated very early in its life. For example, the General Synod approved a new Hymn Book in 1908, and a new, Canadian *Book of Common Prayer* in 1918. A second *Book of Common Prayer* was approved in 1962, and further liturgical developments have continued to be endorsed by the General Synod. Yet these developments would be quite impossible if the Solemn Declaration were read as prohibiting any change in doctrine or worship since 1893. A number of changes over the past 120 years have in fact been quite significant and at times controversial. The publication of both the 1918 and 1962 editions of the *Book of Common Prayer* included changes to the introduction in the wedding liturgy which implied shifts in the understanding of the nature and purpose of marriage. The 1962 *BCP* also included a revision of the Table of Kindred and Affinity, omitting 10 of the original 30 classes of prohibited degrees. The marriage rite in the *Book of Alternative Services* again changed the understanding of the nature of marriage, for the first time making procreation an optional purpose of marriage and implying a positive understanding of sexuality in contrast to the at best

of England permitted remarriage after divorce in 2002, the ordination of women as priests in 1994, and children to receive the eucharist before confirmation in 2006.

## 3.4 Relationship with the Anglican Communion[8]

Our recent history has shown that a change in the status of marriage to include same-sex couples would impair our ecclesial relationships. Past changes to permit the blessing of same-sex unions have caused disruptions in our relations with other churches and this current proposal would further exacerbate these tensions, not only with some parts of the Anglican Communion, but also with some ecumenical partners, particularly the Roman Catholic Church and the Orthodox Church. A requested opinion from the Anglican Communion was sent in a letter from the Inter-Anglican Standing Commission on Unity, Faith and Order (IASCUFO).[9] It indicates that such a move would be problematic. "Members of the Commission are unanimous in urging you not to move beyond your present policy of 'local option.' The fact that the Anglican Church of Canada has not made a national synodical decision about the blessing of same-sex unions or same-sex marriage has given space for the rebuilding of fragile relationships across the Communion." To enact a change to the marriage canon will impair our communion with the church. However, other partners, including the Evangelical Lutheran Church in Canada, with whom we are in full communion, have already made the decision to permit same-sex marriages in the church worldwide.

*"[T]he wider Anglican Communion, through all its 'instruments of unity,' has affirmed the traditional teaching on the matter of marriage. A canonical change that would permit the marriage of same-sex individuals contravenes the Solemn Declaration in a fundamental doctrinal matter that is discordant with the teaching of both the Prayer Book and our Lord."*

S. Andrews, Algoma

grudging acceptance, if not open suspicion, of sex in the earlier rites. Revisions to the Marriage Canon in 1967 and 2001 also introduced significant changes in the understanding of marriage, including permission to remarry after divorce, the removal of provisions for restoration of excommunicated divorcees (on the ground that divorcees were no longer being summarily excommunicated) and the elimination of another 12 prohibited degrees of affinity. Thus significant doctrinal changes in the nature and practice of marriage have been effected over the course of a half century without restraint by the Solemn Declaration." See http://www.anglican.ca/wp-content/uploads/2014/05/7-18-2014-Alan-Perry-Solemn-Declaration.pdf. (page 5)

[8] See also section 2.3 of this report.

[9] See http://www.anglican.ca/wp-content/uploads/2014/05/12-9-2014-Inter-Anglican-Standing-Commission-on-Unity-Faith-and-Order.pdf.

## 3.5 Legal Precedent

The Solemn Declaration was cited during legal challenges around the ownership of property following the Diocese of New Westminster's decision to authorize the blessing of same-sex unions. The court in that instance determined that the Solemn Declaration was not a factor on which ownership of the church property could be challenged as only the General Synod, not parishes, has the authority to determine what is consistent with the Declaration.[10] The court also noted that General Synod has, by past resolutions, determined the nature of same-sex unions as doctrinal but not core doctrine.[11]

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[10] From the reasons of the Mr. Justice Kelleher in the British Columbia Supreme Court in Bentley v. Anglican Synod of New Westminster, 2009 BCSC 1608: "[261] The status of the Solemn Declaration was a matter of considerable evidence and argument in these proceedings. Without deciding whether it sets out enduring foundational principles for the ACC or is a document of historical relevance only, it is sufficient to note that even ascribing to the Solemn Declaration the significance the plaintiffs contend, its interpretation ultimately falls to the General Synod. The General Synod is a representative body whose determinations are binding on the whole of the ACC. Section 6(i) of its Declaration of Principles provides that the Synod has authority and jurisdiction respecting 'the definition of doctrines of the Church in harmony with the Solemn Declaration adopted by this synod.'" See also Kim Murray, *From a Long Perspective: The Foundational Documents, Ecumenical Covenants, and Other Significant Agreements of the Anglican Church of Canada* (Toronto: ABC Publishing, 2007), page 99. As H.R.S. Ryan, past chancellor of the General Synod, says in his book *Aspects of Constitutional History* (Toronto: ABC Publishing, 1993), "The pledge was not to these documents themselves but to the doctrine, sacraments, and discipline set out therein ... consistent with their essential elements. The provision of the accompanying Basis of Constitution of the General Synod … clearly indicated that the Canadian Church was assuming the power to review and revise those documents, consistent with their essential elements."

[11] This is also noted in Justice Kelleher's decision: "In 2007, the General Synod accepted the conclusion of the Primate's Theological Commission, passing Resolution A184, '[t]hat this General Synod accept the conclusion of the Primate's Theological Commission's St. Michael Report that the blessing of same-sex unions is a matter of doctrine, but it is not core doctrine in the sense of being credal.' It also passed resolution A186 '[t]hat this General Synod resolves that the blessing of same-sex unions is consistent with the core doctrine of the Anglican Church of Canada.' By these two resolutions, the General Synod has defined the ACC's doctrinal position on the blessing of same-sex unions. It can also be implied from these resolutions that the General Synod does not view the blessing of same-sex unions as being contrary to the Solemn Declaration. It is clear that the blessing of such unions does not engage core or fundamental doctrine, and, accordingly, there is no breach of trust on even the terms that the plaintiffs put forth."

## 3.6 Conclusion

In submissions to this commission, both Archdeacon Alan Perry and Bishop Stephen Andrews are clear in their comments that the final authority to determine what is in continuity must be the General Synod. It is therefore up to the General Synod to determine whether this is an area of definition and interpretation of doctrine on which it can make change and, if it is, whether this is a change it believes is appropriate.

# 4 Conscience Clause

## 4.1 The Legal Opinion

General Synod resolution C003 asked that the Council of General Synod include a conscience clause, "so that no member of the clergy, bishops, congregation or diocese shall be constrained to participate in or authorize such marriages against the dictates of their conscience." The draft resolution amending Canon XXI contains such a clause.[12] The 2013 resolution also asks that documentation be provided that "confirms immunity under civil law and the Human Rights Code for those who refuse to participate in or authorize the marriage of same sex couples on the basis of conscience."

*: "[T]here is no assurance that priests in the Anglican Church of Canada would be legally exempted from having to perform marriage against their conscience even if the church composes a 'conscience' clause. So we will see a flight of priests."*

R. Blanchard, Rupert's Land

To address this concern, the commission retained the law firm of Hicks, Morley, Hamilton, Stewart, and Storie, LLP, to provide a legal opinion. The opinion concludes:

> *In our view, there is a significant risk that the Proposed Resolution will be subject to a challenge under provincial human rights legislation, the [Canadian] Charter [of Rights and Freedoms], or both. However, the Church will have strong defense against such challenges, and in our view, it is highly unlikely that these challenges would be successful in light of the prevailing jurisprudence and the very clear statements by the Supreme Court of Canada in the same-sex Reference.*[13]

*"I have never heard of any cleric being compelled to perform a ceremony of marriage for a couple whom she or he did not choose to marry."*

A. Budgey, Toronto

Given the ever-changing state of the law, the commission recommends that the General Secretary request that the authors of this legal opinion provide an update prior to General Synod 2016 so that it will reflect the current jurisprudence in Canada and that this updated opinion be provided to members of the 2016 General Synod.

*"There can be no guarantee of immunity under civil law. Jesus himself would not be able to claim immunity. At the same time, it is almost impossible to imagine any court or other government agency interfering in church affairs. This concern is a red herring."*

R. Chaplin, Ottawa

[12] See the draft resolution included as an appendix to this report.

[13] The entire legal opinion is available at http://www.anglican.ca/wp-content/uploads/2014/05/9-11-2014-Hicks-Morley-on-the-conscience-clause.pdf.

## 4.2 Draft Motion

General Synod resolution C003 directs that the Council of General Synod prepare an amending motion to change Canon XXI to allow marriage of same-sex couples and that such a motion should include a conscience clause. A draft motion is annexed to this report as an appendix. The commission is indebted to Chancellor David Jones for his assistance in the drafting of this motion.

Section 3(a) of the draft motion includes a provision which permits dioceses, bishops, and congregations to opt-out of the performance of marriage of same-sex couples.[14] Section 3(b) provides that ministers may decline, for reasons of conscience, to perform same-sex marriages.

*"I believe we walk on shaky ground when we make such a radical redefinition of marriage that this motion suggests, especially when the vast majority of the Christian denominations and other religions are not walking with us."*

Larry Robertson, Yukon

[14] Since the proposed resolution is a canonical one and would become part of the doctrine and discipline of the Anglican Church of Canada, an opt-out rather than an opt-in is the only possible clause.

# 5 Biblical and Theological Rationale

## 5.1 Our Starting Point

In constructing this biblical and theological rationale, we take three matters as given: first, the authority of Scripture for the church as interpreted in the Anglican tradition; second, the understanding of marriage as articulated within the canons, the *Book of Common Prayer* and other authorized liturgies of the Anglican Church of Canada; third, the Anglican Church of Canada's synodical affirmation of "the integrity and sanctity of adult, committed, same-sex relationships."[15]

*"There has never been a clear, solid, theological, biblical case for same-sex marriage and any theological commission that has tried to arrive at one has never reached their destination. Hence, this issue has been pushed forward in the church largely on other grounds that seemed to have more chance of being effective."*

J. Seagram, Toronto

### 5.1.1 The Authority of Scripture

Concern has been expressed about the use, or lack of use, of Scripture in the debates over same-sex relationships.

For some it is obvious that the Bible condemns all such relationships, committed and covenanted or not. Citing the six texts condemning same-sex activity is held to be sufficient to make this argument.[16] For these Anglicans, any attempt to make a positive, biblical case imposes an agenda foreign to the Bible. The choice facing the church, from this point of view, is therefore between faithfulness to biblical revelation on the one hand and acquiescence to cultural pressure on the other.

*"Despite the record of the Old Testament and the customs of the day, our Lord himself recalls us to the original purpose of the Creator in marriage in the face of our broken vows and compromises and explicitly confirms that marriage is intended to be the lifelong union of one man and one woman."*

M. Hawkins, Saskatchewan

For other Anglicans, the Bible functions like a "heritage document" for the church. It belongs to a less enlightened time. At best, it provides a descriptive account of what people at a certain time and place believed, rather than a set of prescriptions for all times and places. For them the church is caught between

[15] Resolution A134, General Synod 2004: http://gs2004.anglican.ca/atsynod/resolutions/A134.htm

[16] Leviticus 18:22, 20:13; Romans 1:26-27; 1 Corinthians 6:9-11; 1 Timothy 1:10. The condemnation of the men of Sodom (Genesis 19:4-5, also Judges 19:22) is also sometimes put forth as an example of the Bible's negativity toward all same-sex relations.

embracing contemporary, secular ideas of justice and equality on the one hand and holding on to the outdated and oppressive ideas of the past on the other. For this position relevance demands that we select and act upon the best of the Christian tradition, such as Jesus' teaching on love.

*"By not acknowledging the cultural contexts of the various passages, Scripture has been used as a weapon of oppression, rather than a life-giving, life-affirming message of God. If we do not differentiate between these cultural descriptions from the voice of love found in the Scriptures, then we will have nothing to offer anyone."*

R. Lott, Niagara

We wish to argue that neither of these two views of Scripture is adequate to the task before our church. Further, there is an Anglican way of reading the Bible that provides a true *via media* ("middle way") in wrestling with the questions before us.[17]

The fundamental importance of scripture to the Anglican church is captured well by Article VI of the Thirty-Nine Articles of Religion: "Holy Scripture containeth all things necessary to salvation: so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an article of the Faith, or be thought requisite or necessary to salvation."[18] The Prayer Book collect for the second Sunday in Advent states that as God "caused all holy Scriptures to be written for our learning," we should therefore "hear them, read, mark, learn, and inwardly digest them, that we may embrace and ever hold fast the blessed hope of everlasting life" in Jesus Christ.[19] It is this movement from *hearing* to *internalizing* ("inwardly digesting") Scripture that marks the church as a community continually shaped by God's revelation. This movement is a process of Spirit-led engagement rather than a simple repetition of words. As the church engages, we learn afresh what that "blessed hope" means for our time and place.

What then do we mean when we talk about "the authority of scripture"? The *Windsor Report* suggests that phrase is shorthand

[17] For an Anglican approach to scriptural authority, see paragraphs 5-7 of the *St. Michael Report* and paragraphs 57-62 of the *Windsor Report* (http://www.anglicancommunion.org/media/68225/windsor2004full.pdf.). Also helpful is Sylvia Keesmaat's article "Welcoming in the Gentiles: A Biblical Model for Decision Making" in *Living Together in the Church: Including Our Differences*, edited by Greig Dunn and Chris Ambidge (Toronto: Anglican Book Centre: 2004), pages 30-49.

[18] See page 700 of the 1962 *Book of Common Prayer.*

[19] See page 97 of the 1962 *Book of Common Prayer*.

for *God's* authority exercised *through* Scripture as a means to directing, energizing, shaping, and uniting the church in its mission of witness to Jesus Christ.[20] This exercise of authority does not trump our engagement; it pushes us deeper, often confounding the easy answers of liberals and conservatives alike.

Integral to the exercise of this authority for mission is the church's practice of interpretation, "not as an attempt to avoid or relativize scripture and its authority, but as a way of ensuring that it really is scripture that is being heard, not simply the echo of our own voices ... or the memory of earlier Christian interpretations."[21]

*"I believe that Scripture points to an ever expanding community of inclusion that begins to stretch the traditional set up of institutions such as marriage."*

C. Harvey, Toronto

Interpretation is the practice of locating ourselves in the biblical narrative of God's unfolding purpose to redeem the good creation that has fallen through sin. The church along with Israel *reads* that story. But as it does so it also recognizes itself as *part* of that story. And it *tells*, indeed *embodies*, that story to the world as witness to God's faithfulness in Jesus Christ. The story offers an open invitation to participation, but is not completely open ended. We do know that the story comes to completion in the "summing up" of all things in Jesus Christ (Ephesians 1:10), which is nothing less than "a new heaven and a new earth" (Revelation 21:1).[22] The actions of the church in the present fill the story out, bridging the time of Jesus' life, death, resurrection, ascension, and the time of his return.[23] As the church interprets Scripture, it "does theology,"

[20] See paragraph 55 of the *Windsor Report.*

[21] Paragraph 59 of the *Windsor Report*. It adds that "we must always take [earlier interpretations] into account: 'tradition' consists primarily of the recollection of what the scripture-reading church has said)." An important corollary of the *Windsor Report*'s model is found in the Bible in the Life of the Church project materials which seek to discern a common Anglican approach to scripture. It does this not simply by recording doctrinal or confessional statements about the Bible, but by chronicling the way the Bible actually functions in Anglican churches around the world.

[22] Notably in Matthew 22:30 Jesus invoked this new creation ("in the resurrection") to say something important about marriage and sexuality. See the submission of David Widdecombe at http://www.anglican.ca/wp-content/uploads/2014/05/10-30-2014-Diocese-of-Ruperts-Land-David-Widdecombe.pdf.

[23] For a development of this idea, see N.T. Wright, S*cripture and the Authority of God* (San Francisco: HarperOne, 2011). See also Samuel Wells, *Improvisation: The Drama of Christian Ethics* (Grand Rapids: Brazos Press, 2005).

recognizing the presence and call of God in its wrestling with contemporary questions in Scripture's light.[24]

The *Windsor Report* acknowledges that while we belong to a stream of interpretation, we also bring the best resources from our contemporaries to bear on our interpretations. This is important in the understanding of the relation between Scripture, tradition, and reason. There is a legitimate concern about placing these together as three equal and mutually substitutable voices in discerning God's direction for the church,[25] as if tradition and reason could together "outvote" Scripture. Rather, tradition is the voice of the church as it has heard and embodied the call of God through Scripture in different historical and cultural situations. Reason faithfully uses the gifts the church has been given in the contemporary world, including scientific research, for hearing the call of God through Scripture in every present historical and cultural context.[26] Conversely, there is no faithful reading of Scripture apart from reason and tradition.

The approach we wish to take is thus recognizably Anglican in two important ways: first, while Scripture bears the final authority for the church, it does not do so apart from interpretation and application. No reading of scripture is "uninterpreted" apart from reason and tradition. No reading of Scripture can be abstracted from the life of the church and its struggle to embody the Gospel. Second, it recognizes Scripture as a text read (or perhaps better "performed") primarily in community, in the context of the liturgy, rather than a text read privately in the context of one's personal devotions on the one hand, or in the scholarly laboratory

[24] Luke Timothy Johnson, *Scripture and Discernment: Decision Making in the Church* (Nashville: Abingdon, 1996), page 102, quoted in Sylvia Keesmaat, "Welcoming in the Gentiles," cited above.

[25] See, for example, the submission of Matthew Perreault at http://www.anglican.ca/wp-content/uploads/2014/05/9-23-2014-Matthew-Perreault-Calgary.pdf.

[26] For example, once the Genesis creation stories were set free by modern evolutionary theory from an apologetic need to explain the "how" of the world's origins, their counter-imperial, environmental and liberative political significance was unleashed.

on the other.[27] This is not to dismiss piety or scholarly work, provided they serve the primary purpose of the people discerning the call of God in and for the church.

Thus we take a *via media* approach to Scripture between one way which appeals to isolated texts as "proof" of a particular understanding of being biblical, and another which discards Scripture as a site for hearing any authoritative word that stands over against uncritically accepted and culturally derived ideas. By contrast, we are adopting a stance consonant with the broad approach to Scripture of the *Windsor Report*, which seeks to discern what faithful practice with regard to the question of same-sex marriage might look like in our Canadian context. It also accords with a welcome shift in the use of Scripture by opponents of same-sex marriage away from the six "bullet" texts, which are then answered by those sympathetic to same-sex marriage,[28] invariably generating more heat than light about the overall intent of God in sexuality and marriage within the biblical story.[29]

### 5.1.2 The Definition of Marriage

The official understanding of marriage in the Anglican Church of Canada is outlined in the first paragraph of the current Canon XXI:

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[27] And so we also find problematic the easy dismissal of Scripture's discussion of marriage as enmeshed in ancient cultural practices. It is precisely in that enmeshment that the call of God for that time can be discerned, and analogies to our time constructed.

[28] For an example of answering these six texts, see Charles D. Myers, "Homosexuality and the Bible: A Consideration of Pertinent Passages," at http://covnetpres.org/2005/05/homosexuality-and-the-bible.

[29] See John E. Goldingay, Grant R. LeMarquand, George R., and Daniel A. Westberg, "Same-Sex Marriage and Anglican Theology: A View from the Traditionalists ," in *Anglican Theological Review*, volume 93, number 1 (winter 2011). "Is same-sex attraction a divine gift from creation parallel to heterosexual attraction, or is it a manifestation of sinfulness? In isolation, the restrictive regulations in Leviticus and the negative comments in the epistles about same-sex acts might be read either way" (page 19). But the decisive factor in interpretation is God's creational intent. What is "natural"? "The attempt to discover what the Bible has to say about same-sex relationships involves looking to it for answers to questions it does not pose, at least not in the form we want to ask them" (page 21).

*The Anglican Church of Canada affirms, according to our Lord's teaching as found in Holy Scripture and expressed in the Form of Solemnization of Matrimony in the Book of Common Prayer, that marriage is a lifelong union in faithful love, and that marriage vows are a commitment to this union, for better or for worse, to the exclusion of all on either side. This union is established by God's grace when two duly qualified persons enter into a covenant of marriage in which they declare their intention of fulfilling its purposes and exchange vows to be faithful to one another until they are separated by death. The purposes of marriage are mutual fellowship, support, and comfort, and the procreation (if it may be) and nurture of children, and the creation of a relationship in which sexuality may serve personal fulfilment in a community of faithful love. This covenant is made in the sight of God and in the presence of witnesses and of an authorized minister.*[30]

*"Throughout both testaments there are many models of marriage and family which are taken as normative in their time, from the polygamy of the ancestor stories, to the one man/one woman understanding of first-century Palestine, to the idealization of celibacy in the New Testament, to the strong covenantal relationship between David and Jonathan. The common thread seems to be long-term faithfulness and covenantal love as a foundation of family life."*

S. Sanford Beck, Saskatchewan

The same understanding is outlined in the marriage vows, and in the declaration which, as stipulated by Canon XXI, is to be signed by every couple married in the Anglican Church of Canada:

*We, _____ and _____, hereby declare that we intend to enter into marriage which we acknowledge to be a union in faithful love, to the exclusion of all others on either side, for better or for worse, until we are separated by death.*

*"We recognize that marriage is a universal institution, a part of the created order, though differing significantly in various cultural and religious contexts. Despite the broad variety of understandings of marriage in the world and history, it has always been based on the union of male and female."*

Gracious Restraint Bishops

This understanding can be taken to be common ground in this discussion, and will remain the Anglican Church of Canada's understanding of marriage whether or not the canon is amended. This will be further explained below.

What is undergoing debate, following the General Synod resolution of 2013, is whether the Anglican Church of Canada should extend its official understanding that marriage is only permissible between a man and a woman, so as to include the marriage of same-sex couples.

[30] See Canon XXI here: http://images.anglican.ca/pdf/handbook/221_canon_XXI.pdf.

We need to consider in what sense it may be meaningful, faithful, and even necessary to speak of the union of same-sex couples, and the blessing of that union by the church, as marriage.

*"[I]f the church is going to continue to marry people, the question I ask myself personally is: can I really be a part of a church that doesn't see me as an equal member? The message to exclude same-sex couples amounts to rejection. We are not being seen as equal members of the church."*

R. MacAdam, Toronto

### 5.1.3 The Anglican Church of Canada and its Homosexual Members

In 2004 the General Synod affirmed "the integrity and sanctity of committed adult same-sex relationships." This affirmation is consistent with the conviction that sexual orientation is a fundamental aspect of human identity, a given (though not always unambiguous or unchanging). Like other aspects of human identity, it is potentially both a challenge and a blessing.

Civil marriage of same-sex couples is legally authorised in Canada. The Anglican Church of Canada recognizes and respects the law of the land in this matter, without thereby making assumptions about the theological meaning of such civil marriages. In about half of the Anglican dioceses in Canada, the blessing of these same-sex civil unions has been authorized under a diversity of protocols.[31]

*"We are opposed to same-sex marriage. We are not opposed to homosexuals."*

H. & M. Cleaver, New Westminster

The Anglican Church of Canada has committed itself to listening to the voices of gays, lesbians, and other sexual minorities, especially those within our church. We are becoming aware of their pastoral needs, particularly those of young people, and of the prejudice, bullying, or difficulty in accepting themselves which they may experience. We confess, with regret, the negative role that the church has historically played in contributing to these problems.

*"It is not difficult to imagine a future day when the church will engage in a corporate act of repentance for its involvement in the social marginalization of GLBTQ communities."*

R. Gillis, Nova Scotia & Prince Edward Island

While it is clear that not all Canadian Anglicans agree with these developments, they represent the official position of the Anglican Church of Canada. Thus this commission, as directed by the 2013 motion that requested its formation, must assume our synodical resolutions as the starting point for this particular debate about same-sex marriage. The commission now proceeds to a reflection

[31] This is based on a survey of dioceses conducted at the spring 2015 meeting of the House of Bishops.

on the nature of marriage and whether it is the appropriate category to apply to committed adult same-sex relationships.

## 5.2 Aspects of a Theology of Marriage

When Christians talk about marriage, they mean more than a civil ceremony that happens to take place in a church, with a priest or minister presiding instead of a magistrate. Articulating that "more" is what we mean by a theology of marriage. While space does not permit a comprehensive statement here, there are aspects of a theology of marriage, and specifically an Anglican theology of marriage, that should sufficiently guide our reflection on same-sex marriage.

*"I believe that civil marriage is a legal contract. … Christian marriage invites God in the form of Love to be the centre of the relationship—to be the One who will 'win' the unwinnable argument, to be the strength that allows a spouse to support the other through unemployment, illness, the death of a child or family member."*

M. Delva,
New Westminster

We begin with some general statements about the relationship (and difference) between a civil and theological understanding of marriage. The former sees marriage as a contract between two parties, concerned with matters of property and social stability. The latter locates marriage within the biblical narrative of a good creation fallen into sin but under redemptive grace in Jesus Christ which points toward the new creation. Marriage is thus an aspect of discipleship, which looks back at the covenanting Creator who gifted all things with life, and which looks ahead to the renewal of all things after the image of Jesus Christ. Thus the purposes of marriage look back to the companionship—even communion—of the first humans in the garden. They look back to the primal command to fill the earth. But they also look ahead to the mystery of the church's relation to Jesus Christ which reorders and reorients marriage. This latter understanding accords with sacramental theology, which is why some Anglicans call marriage a sacrament.

### 5.2.1 The Distinction between a Civil and a Theological Understanding of Marriage

Since 2005 same-sex couples in Canada have had the legal right to contract civil marriages. This is not in question in the current General Synod motion. The question we are mandated to address

is not primarily an issue of civil rights. At issue in the 2013 General Synod motion is the biblical and theological question of the meaning of Christian marriage, and what benefits and obligations it extends to its parties, and to all baptised Christians, over and above any civil contract.

Currently civil marriage and Christian marriage (or "holy matrimony") within the church overlap to a considerable extent. In Canada, unlike in some other countries, the civil contract and the religious ceremony normally happen together in the church. The fact that we use the same word ("marriage") for both the legal institution and the particular Christian way of life is one factor that burdens and confuses the debate.[32] For the sake of clarity it is helpful to distinguish the two in our thinking, and to focus on the question of the theological meaning of marriage in the Christian tradition.

*"The arguments that support same-sex marriage in civil law have no bearing on the question of whether or not same-sex marriage should be allowed in canon law. It is not a question of equality, of benefits or of discrimination; it is a question of what God ordains, what He blesses and what He covenants with us."*

M. Perreault, Calgary

### 5.2.2 Sexual Duality

Marriage in all cultures has traditionally been between man and woman (though not necessarily between one man and one woman, including in parts of the Scriptures). This is a reflection of a basic anthropological categorization. With regard to reproduction, this fact is absolute: all of us have come into being through the union of a man's sperm and a woman's egg. With regard to identity and orientation, this duality is less absolute: Western societies, including Canada's, are discovering that different individuals understand their own gender or sexual orientation in different ways.[33] Nevertheless, sexual duality and heterosexual orientation remain predominant biological characteristics of humanity.

[32] As David Neelands argues in his submission to the commission, "Like the early church in the Roman Empire, Anglican Churches know almost no variation in the definition of marriage and the judgments of marriage from the societies in which they live." See http://www.anglican.ca/wp-content/uploads/2014/05/9-30-2014-David-Neelands-Toronto.pdf.

[33] The term "gender" is used throughout this report as it has been traditionally understood, with the acknowledgement of current debates on gender identity/construction.

We should be wary of extrapolating from these facts the notion that heterosexuality is "natural" in contradistinction to homosexuality. According to current predominant scientific understanding, homosexual orientation is a "natural" phenomenon in the sense that it is also an anthropological given, not something that is either freely chosen or nurtured in a child.[34]

To speak of the predominance of heterosexual orientation (and its necessary role in reproduction) is simply to state a biological fact. What value and significance is attached to that fact is a theological question. To answer this question, we must turn to Scripture.

Two preliminary observations come from our faith tradition:

- On the one hand, the Judeo-Christian tradition has resisted the divinizing of heterosexual duality into an absolute principle. This is in contrast to ancient fertility religions whose male and female gods define reality by their heterosexual mating, a religious worldview echoed by large swaths of our contemporary over-sexualized culture. The ancient Hebrew claim, and its Christian affirmation, are that "God created humankind in his image, in the image of God he created them; male and female he created them" (Genesis 1:27). Gender diversity was created by God, who cannot be defined in terms of either gender or by the genders in relation to each other through marriage. Nor does gender or marital status describe our ultimate identity and destiny as human beings.[35]

*"Although some have maintained that gender difference has no theological significance in marriage I would contend that gender difference is central to marriage. Both male and female are present in the mystery of God. Same-gender relationships are missing the whole dimension of the other gender."*

M. Eason, Montreal

*"With respect to Paul's language, the question of what is 'natural' also includes what is conventional, as in the length of men's and women's hair (1 Corinthians 13:14-15). All of which may mean that natural law arguments, though suggested by Scripture, need to be used with caution."*

D. Neelands, Toronto

[34] The 1973 decision of the American Psychological Association to delist homosexuality from the Diagnostic and Statistical Manual of Mental Disorders is but one symbolic moment in a widespread scientific consensus in this respect.

[35] It should be noted here that living in a married state is neither necessary nor preferable for human or Christian fulfillment. Indeed the theology of the New Testament suggests that it is the church (the ecclesia), that is a more fundamental covenantal community than marriage when it comes to fulfillment. See for instance Galatians 3:28-29: "There is no longer Jew or Greek, there is longer slave or free, there is no longer male and female; for all of you are one in Christ Jesus. And if you belong to Christ, then you are Abraham's offspring.…" As far as our destiny, it was Jesus who said: "You are wrong, because you know neither the scriptures nor the power of God. For in the resurrection they neither marry nor are given in marriage…" (Matthew 22:29-30).

- On the other hand, the majority Western Christian tradition has also celebrated heterosexual love as a good gift of God. We should not forget how hard-won this insight is. The dualistic thinking of late antiquity, with its distrust of physical reality and of the body, influenced Christian thought to the extent that for much of the history of the church the goodness of sexuality has been seriously challenged by some theologians and church leaders. It is in recent centuries that the Western church has begun truly to overcome this tendency and celebrate heterosexual love as a joyous gift of God. If homosexual love is to be celebrated in the same terms, it would be unfortunate to lose the rich celebration of heterosexual love that runs through our cultural and religious heritage.

## 5.2.3 Marriage and the Creation Accounts

### 5.2.3.1 The Old Testament

The creation stories address sexual duality as a basic anthropological given. In Genesis 1:27 it seems to be associated with the image of God in humankind: "So God created humankind in his image, in the image of God he created them; male and female he created them."

*"In my opinion, what is needed before the marriage canon should be changed is an account of how marriage between members of the same sex can be understood as related to the Old Testament and particularly the doctrine and narrative of creation."*

D. Resch, Qu'Appelle

The meaning of the image of God has been fraught in the history of interpretation.[36] Indeed, the interpretation of the image has more reflected the reigning theological anthropology and understanding of human uniqueness of the interpreters' time than it has revealed careful attention to the original context of Genesis.[37] Most contemporary Old Testament scholars agree that the image must be understood not in a structural manner (as some feature or capacity of human beings, whether rationality,

[36] For a survey of interpretations, see J. Richard Middleton, *The Liberating Image* (Grand Rapids, MI: Brazos Press), 2005, especially chapter 1.

[37] "By studying how systematic theologies have poured meaning into Gen. 1:26, one could write a piece of Europe's cultural history." H. Berkhof, *Christian Faith: An Introduction to the Study of the Faith*, translated by Sierd Woudstra (Grand Rapids: Eerdmans, 1979), page 179.

spirituality, or relationality) but in the human role as divine representative in creation.[38]

The writer of Genesis is criticising ancient near eastern royal ideologies that understood the king as image or representative of the divine. Genesis states that the entire human community, male and female, is created in God's image. The image speaks of humans as created to extend God's rule in creation, rather than humans as "looking like" God. Gender ("male and female") therefore refers not to God, and so God's image, as sexually differentiated, but to God's call to humanity to "be fruitful and multiply and fill the earth." While sexuality and procreation are implied as a means to fulfilling that commission,[39] there is no explicit reference to marriage (nor to family) as a necessary agent of procreation. The full human community as *adam*[40] ("male and female") is responsible to fill the earth.

The question of marriage is more relevant to the second creation story (Gen 2:4–25). Rather than simply a given ("male and female God created them"), differentiation is narrated as a process. As in the first account, the concern is with the human task, this time understood as care and cultivation (verses 15-16) within the limits set by the Creator (verse 17). Here is Scripture's first recorded covenant between God and humanity. This covenant is dramatized by YHWH Elohim (the Lord God) filling a series of needs: the garden needs a gardener, so the man is created; the man needs an *etzer* (co-gardener), so the woman is created.[41]

*"After describing the adam's action to the new woman, the text continues, "For this reason..." Anglicans tend to interpret this as implying that God Himself ordains marriage. But does the text actually say this? "For this reason..." is the narrator's voice: "Since God has been good enough to give us suitable partners, isn't this way we get married and establish households?" Recognizing the narrator's voice allows us a way to honour marriage while recognizing that it is shaped by thoroughly human cultural assumptions that God can and does use but of which He does not necessarily approve."*

R. Walker,
Rupert's Land

[38] See Middleton, cited above, pages 24-27.

[39] Terence E. Fretheim, "The Book of Genesis: Introduction, Commentary, and Reflections," In *The New Interpreter's Bible*, volume 1, edited by Leander Keck (Nashville: Abingdon Press, 1995), page 346.

[40] Here we encounter a problem in translation. The term *adam* derives from the same Hebrew root as "earth" or "ground." It denotes in Genesis 1:26 "humans" (as male and female), in Genesis 2:7 "the man" (NRSV) understood as "ground creature." In the latter case, the identity of the ground creature is specified neither as male nor female, but discovers its identity as "male" (the Hebrew *ish*) in relation to the "female" (*ishshah*) created in Genesis 2:22.

[41] William P. Brown, *The Ethos of the Cosmos: The Genesis of Moral Imagination in the Bible* (Grand Rapids: Eerdmans, 1999), page 136. The word etzer, translated "helper", implies no subordination. The same term is used for God in Ps 70:5

The climax of the drama is the "bone of my bones and flesh of my flesh" speech of the man (verse 23) and the explanatory comment ("for this reason a man shall leave…") in the following verse (24). The declaration "bone of my bones and flesh of my flesh" speaks of the delight in encountering another both similar to and different from the self. The transformation that happens is reflected in the language of *adam* (related to *adamah*, or "ground") changing to *ishshah* (fe-male) and *ish* (male). The man both knows and names himself differently in his relationships. It is in these relationships that he is both rooted and yet open to an unfolding future.

The explanatory comment, "for this reason a man…" (verse 24), which is the first mention of marriage in the Bible, is interesting for two immediate reasons. First, it makes no explicit reference to procreation as part of the intent for marriage. The need the Creator fulfills in making the woman is the aloneness of the *adam*, and is met by companionship (Genesis 2:18). It is only after eating the fruit of the Tree of Knowledge that the man names his wife *Eve*, "mother of the living," limiting her role no longer as equal partner but as subordinate, procreative vessel. Second, normally in the life of ancient Israel it was the *woman* (rather than the man) who left her parents to be joined to her husband.[42] This leaves open the question of how the comment is to be applied to the "institution" of marriage in Israel, especially given "how few marriages in the Old Testament, if any, conform to Genesis 2:24."[43] Whether Genesis 2:24 was intended to be a normative statement about the particular form of marriage is not clear. That the voice in the text is that of the narrator (rather than God) supports the statement as being descriptive rather than prescriptive.

[42] See Terence Fretheim, "Book of Genesis," (cited above) page 354.

[43] Victor P. Hamilton, "Marriage: Old Testament and Ancient Near East." *The Anchor Yale Bible Dictionary* , volume 4, edited by David Noel Freedman, (New York: Doubleday, 1992), page 560.

### 5.2.3.2 The New Testament

Jesus, in Mark 10:1-10 and Matthew 19:1-9, combines the two creation accounts in discussing the question of divorce. Quoting Deuteronomy 24:1, where Moses is said to acknowledge the convention of granting a certificate of divorce, Jesus observes this as an accommodation to human brokenness (Mark 10:5). If the two as "male and female" are "one flesh" in marriage, then divorce is a violation of the Creator's intent (Mark 10:9). What lies behind the question of the Pharisees (which is phrased as *peirazō*—the same as the temptations of the devil in Mark 1:13, and the question about Caesar's taxes in 12:15) is the prophetic denunciation by John the Baptist of Herod's "unlawful" marriage of his brother's divorced wife (Mark 6:18).

*"There can be no question but that Jesus is, and will always be, profoundly loving and receptive. However, he does make statements which are directly relevant to the marriage of persons of the same sex, and what he says is unambiguous."*

R. Kydd, Toronto

Jesus refuses to be entrapped, and yet also refuses to make a new law; rather, he challenges the "hardness of heart" reflected in both casual and utilitarian practices of divorce and remarriage in the Hellenistic world.[44] Jesus is therefore not stating a timeless doctrine of marriage, but rather giving a pastoral (and political) response to a particular set of practices.

*"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 first-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."*

B. Bryant-Scott, British Columbia

Paul develops Jesus' teaching in a way that places "good order and unhindered devotion" above all (1 Corinthians 7:35). Paul echoes Jesus' reply to the Sadducees ("in heaven they neither marry nor are given in marriage" (Matthew 22:30 and Mark 12:25)), reimagining both marriage and singleness as callings "in the Lord" and for the time *before* the eschaton, the return of Christ. Like Jesus, the apostle Paul's teaching on marriage invokes Genesis 1:27 and 2:27. However, the former passage is subjected to "Christological *discipline*"[45] in Galatians 3:28 in that the new humanity is no longer humanity as "male and female,"

[44] See Pheme Perkins, "The Gospel of Mark," *The New Interpreter's Bible*, volume 8, edited by Leander Keck (Nashville: Abingdon Press, 1995), pages 645-6.

[45] Deirdre J. Good, Willis J. Jenkins, Cynthia B. Kittredge, and Eugene F. Rogers, Jr., "A Theology of Marriage Including Same-Sex Couples: A View From the Liberals," in *Anglican Theological Review,* volume 93, number 1 (winter 2011), page 70. Emphasis added.

but humanity as "in Christ Jesus." The divine image is restored in a way that opens the possibility of Christian relationships beyond the power-differentiated "male and female" and "Jew and Greek" and "slave and free"—corrupted human relationships which have claimed to exclusively reflect God's image to the world.

In Ephesians 5, the Genesis 2 passage is given Christological *expansion* in that "the two shall become one flesh" is fulfilled in the mystery of Christ and the church.[46] Marriage reflects that mystery not simply in procreation, but in its witness to love of neighbour. "Ephesians is not saying that we should take our understanding of Christ and the church from how our marriages work. It says that we should understand marriage from Christ and the church."[47]

### 5.2.3.3 Romans 1 and the Question of Natural Law

Several submissions to the commission made reference to Romans 1 as invoking a natural law argument, calling both male and female same-sex relationships a perversion of natural law or creation order.[48] A more detailed treatment of Paul's argument

[46] Good, Jenkins, Kitteredge, and Rogers, "A View From the Liberals," cited above.

[47] See page 71 of Good, Jenkins, Kitteredge, and Rogers, cited above. Marriage is of course not the only or necessarily the most used metaphor of the "mystery of Christ and the Church." Christ as the cornerstone of the church's building, and especially Christ as the "head" of the church's "body," are pressed as metaphors in several of the epistles. Conversely, we note that unmarried Christians (children, and single, divorced and widowed adults, and those living in intentional communities), perhaps the majority in the church, are not deprived of the "mystery" of Christ by their status, nor do the married of the Church possess more of the mystery.

[48] See, for example, the submission of Randall Ingalls (http://www.anglican.ca/wp-content/uploads/2014/05/9-30-2014-Randal-Ingalls-Fredericton.pdf), page 2. The question of natural law and Romans 1 is helpfully discussed in the submissions of Warren Lewis (http://www.anglican.ca/wp-content/uploads/2014/05/9-9-2014-Warren-Lewis-Fredericton.pdf), page 9, David Neelands (http://www.anglican.ca/wp-content/uploads/2014/05/9-30-2014-David-Neelands-Toronto.pdf), pages 3-5, and Karl Furr (http://www.anglican.ca/wp-content/uploads/2014/05/5-6-2014-Karl-Dean-Furr-Ontario.pdf), pages 6-9. For further treatment of the question of natural law in relation to the New Testament and sexuality, see Richard Norris, "Some Notes on the Current Debate Regarding Homosexuality and the Place of Homosexuals in the Church," in Anglican Theological Review, volume 90, number 3, pages 437-511.

is beyond the scope of this report, though is readily available elsewhere.[49]

There are three points that may be agreed upon regardless of one's view on same-sex marriage. First, the particular language Paul is drawing upon ("natural intercourse" in Romans 1:26-27) is different from the popular "It's not natural!" sentiments often expressed as a gut-level revulsion at the mention of (usually male) same-sex practices.[50] Since revulsions are socially and psychologically formed, they are unreliable as pointers to natural order.[51] By contrast, for some people same-sex attraction is the most "natural" thing,[52] and to contemplate physical desire toward a member of the opposite sex would feel "unnatural."

*"Christian marriage represents the willingness of two people to make of their life together a sign of the power of love—God's unitive love—to 'overcome estrangement, to heal guilt, and to overcome despair.'"*

A. Tucker, Calgary

Second, for Paul "contrary to nature" is not necessary a synonym for "sinful." For instance, the term "contrary to nature" (*para physin*) is also used later in Romans to speak of the grace of God, *para physin*, in grafting Gentiles "as a wild olive branch" onto the cultivated tree ("natural branches") of Israel (11:17, 21).

Third, Paul's concern in the passage is not sexuality, but self-righteousness. Indeed, his use of such diatribe is a very specific strategy within Romans to attack the usual ways people see themselves as more righteous than others. New Testament scholar Richard Hays identifies Paul's purpose as "a homiletical sting

[49] See part three, J. Brownson's *Bible, Gender, Sexuality* (2013)

[50] This was expressed in some submissions arguing against the "naturalness" of homosexual practice. See, for example, the submissions of Robert Blanchard (http://www.anglican.ca/wp-content/uploads/2014/05/9-8-2014-Robert-Blanchard-Ruperts-Land.pdf) and Brian Johnson (http://www.anglican.ca/wp-content/uploads/2014/05/9-29-2014-Brian-Johnson-Toronto.pdf). Richard Norris (cited above) comments: "One of the commonplace errors that haunts discussions of homosexuality is the all-but-universal tendency to let the mind slip from 'normal' to 'natural,' i.e., from 'currently normative' or 'how things are with us' to 'what the unchanging order of things has ordained.'"

[51] The gag reflex people in the West feel toward eating insects, for example, does not mean that eating insects is unnatural. It has to do with what is "natural" (or conventional) within their cultural setting. See Heather Looy, Florence Dunkel, and John Wood, "How Then Shall We Eat? Insect-Eating Attitudes and Sustainable Foodways," in *Agric Human Values*, volume 31 (2014), pages 131-141.

[52] As suggested in the submission of Warren Lewis, cited above, on page 14.

operation" in order to show how "self-righteous judgment of homosexuality is just as sinful as homosexual behaviour itself."[53] Put another way, Paul is attacking the "holier-than-thou" people of his day who claim that "others" (Gentiles) need the grace of God more than they (Jews).[54]

### 5.2.4 Marriage as a Christian Way of Life

Marriage in the order of creation is linked to the fundamental social nature of humankind, as actualized and symbolised by heterosexual partnership. Already in the Hebrew Scriptures, this fundamental anthropological phenomenon is given theological meaning by the analogy of God's relationship with Israel.[55] With the coming of Christ and the church this original meaning is further deepened, expanded, and reinterpreted.

In this understanding, the Church is the primary sign of the community shaped by Jesus Christ, first seen in the fellowship of Christ and his disciples, and then in the continuing ecclesial community itself. Heterosexual marriage is one form of Christian life by which we live out the central commandment to love one another as Christ has loved us.

However, it is only one form alongside others. We are called also to live this commandment in other relationships: in the broader ties of family, in friendship, in contexts of work, in our civic life, and sometimes in the context of the covenanted religious life, such as in monastic communities. One of the dangers the church faces is that contemporary Western culture tends to overvalue romantic love at the cost of other relationships, covenanted or

[53] Richard Hays, *The Moral Vision of the New Testament* (San Francisco: HarperCollins, 1996), page 389. It should be noted that for Hays, crucial to Paul's argument is the assumption that his readers would have agreed that homosexual behaviour was "against nature."

[54] While he finds no positive basis for Christian legitimacy of same-sex practices, N.T. Wright acknowledges that understanding Paul's rhetorical strategy is crucial to interpreting Romans 1:16-3:20. See Wright, "The Letter to the Romans: Introduction, Commentary, and Reflections" in *The New Interpreter's Bible,* volume 10 (Nashville: Abingdon Press, 2002), page 428.

[55] As with Christ and the church in the New Testament, marriage is not the only analogy used in the Old Testament.

not, investing it with almost salvific value as the only path to human happiness. Our challenge in reflecting theologically on Christian marriage is to bring a healthy distrust to this idolatry of romance, while at the same time recognizing the particular value of this kind of relationship within the larger affirmation of heterosexual marriage in the Christian tradition.

*"Other than the love affair Isaac and Rebekah, the human relationship in the Hebrew Scriptures that most resembles idealized "Christian marriage" was the love between David and Jonathan. These two young men entered a covenant (berith) of love and mutual commitment: berith is the word that describes the relationship between Yahweh (a husband) and Israel (his wife)."*

W. Lewis, Fredericton

The specific shape of Christian marriage—in distinction from the other forms of Christian community—is that it is a commitment to a lifelong, exclusive, faithful relationship with one person. Here the metaphor of God's covenant with Israel, and of the "mystery of Christ and the Church" is foundational. As a lifelong relationship, it extends over time, through the stages of our growth and aging, for better or worse, in sickness as in health. As an exclusive relationship, it implies a commitment to and intimacy with this one person, including in the vulnerability and neediness of our sexual nature. Marriage is the discipline of loving another in the intimacy of daily life with all the particular joys, but also all the challenges, that this presents.

### 5.2.5 Marriage as Covenant

This commitment is expressed in the biblical image of the "covenant" of marriage, an image modelled on the language used to express God's relationship to us.[56] A covenant differs from a contract in that it involves not just specific concrete obligations, but the commitment of one's whole self to the relationship regardless of the other person's failures to keep their covenanted vow.

God, the Holy and undivided Trinity, is the source of all that is, the source of all life and all love. The self-originating and self-giving life of the Three-in-One is poured into the universe in creating, redeeming and sustaining action. As human beings

[56] James Brownson argues that "covenant" is rarely used in the Old Testament of the marriage relationship. Rather, "[i]t was the prophetic tradition that began to use marriage as a metaphor for God's relationship with Israel, deepening Israel's understanding of what marriage itself meant by using marriage as an image for divine faithfulness." See his *Bible, Gender, Sexuality: Reframing the Church's Debate on Same-Sex Relationships* (Grand Rapids: Eerdmans, 2015), pages 95-96.

created in the image of God, redeemed through the life, death and resurrection of Jesus Christ, and gifted by the Holy Spirit, our vocation is to live in relationship with the God who has called us into being, and to grow in holiness and maturity, to the measure of the full stature of Jesus Christ.[57]

The Scriptures attest to the covenantal relationship that God seeks first with the people of Israel and then with all people through the death and resurrection of Jesus. This new covenant is received by divine grace through Christian faith. As the prophets proclaim, God's relationship to the world is marked by divine steadfast love and faithfulness. When human beings break their relationship with God they are not abandoned, but with judgement and love God calls them back into their covenantal relationship. The new covenant established by Jesus is the supreme sign of God's great love for the whole world and the focus of God's continuing mission for the church.

This life of faith is grounded in our baptism and reflected in the baptismal covenant that shapes the life of all Christian people. We are called to be signs of the new creation that has been inaugurated with the resurrection of Jesus Christ. All Christians are nourished by word and sacrament and are called to a vocation of Christian witness and service in the world. This witness and service must always grow out of the knowledge of what God in Christ has done for us and is doing within our lives, within the church and in the world.

Christian relationships ideally reflect Christ's life in the world, which calls us to live into God's new creation. All relationships are meant to be characterized by fidelity and love. Lifelong, committed relationships have a special covenantal nature that at their best reflect this faith and acknowledge God's call upon all the faithful to grow into the fullness of Christ.

Christian marriage has been described as a relationship that, at its best, reflects God's faithfulness to creation and the church

[57] This section acknowledges the work of the Task Force on Same-Sex Unions, Diocese of Kootenay, 2011.

as the community of the new covenant (Ephesians 5:27). Signs of God's presence include faithfulness, justice, mercy, love, and sacrificial self-giving. The marriage liturgies of the Anglican Church of Canada celebrate the covenant established between two people committing their lives to one another in the sight of God and express the public desire of the community at worship to acknowledge and embrace God's work of grace made visible in human lives.

### 5.2.6 The Marriage Vows

This key sense of a lifelong and exclusive self-commitment is expressed in the Anglican Church of Canada's marriage liturgies by the declaration of intent:

> *Wilt thou love him/her, comfort him/her, honour, and keep him/her, in sickness and in health; and, forsaking all other, keep thee only unto him/her, so long as you both shall live?* (Book of Common Prayer)

> *…to love him/her, comfort him/her, honour and protect him/her; and forsaking all others, to be faithful to him/her so long as you both shall live.* (Book of Alternative Services)

And in the marriage vows:

> *…to have and to hold from this day forward, for better for worse, for richer for poorer, in sickness and in health, to love and to cherish, till death do us part, according to God's holy ordinance; and thereto I give thee my troth.*
> (Book of Common Prayer)

> *…to have and to hold from this day forward; for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish for the rest of our lives, according to God's holy law.* (Book of Alternative Services)

In our current practice the presence of the vows, by which the covenant is made before God, appears to be the distinctive difference between a marriage and the blessing of a civil marriage. The form for the Blessing of a Civil Marriage in *Occasional*

*Celebrations* expressly forbids the repetition of the marriage vows.[58] The blessing of a civil marriage does not afford a couple the same opportunity to covenant together "in the sight of God, and in the face of [the] congregation."

The understanding of marriage reflected in the marriage vows raises questions for the church:

- Should the church work to include same-sex couples in the kind of covenantal language so far used only for heterosexual couples at their weddings?
- Conversely, is it right for the church to forbid same-sex couples from making this commitment before God? (This is currently the situation, at least in those dioceses that use the form for the Blessing of a Civil Marriage with same-sex couples, a liturgy that is characterized precisely by the omission of any form of vows.)
- If a same-sex couple used covenantal vows in the language of current heterosexual vows, would these vows be true to that couple's at experience and expectations, and reflect the range of meanings inherent in heterosexual vows?
- If the church wants same-sex partnerships to be called something other than marriage, or to use covenantal vows distinct from the Christian vows currently used by heterosexual couples, are we saying that these same-sex covenants and vows are theologically different from heterosexual vows and marriages?

*"Marriage in the church is the expression of a lifelong vow of faithful and faith-filled love—all possible for same-gender couples."*

J. Davies, Toronto

[58] *Occasional Celebrations of the Anglican Church of Canada* (Toronto: ABC Publishing, 1992), page 58. There is a problem here. The rubrics state that the previous vows should be lifelong in intention, but otherwise there is no stipulation as to what they should have contained. Yet the actual content of the vows is fundamental to a Christian understanding of marriage. Has, for example, the couple promised mutual fidelity in an exclusive relationship? If not, can we really say that marriage in a sense reflecting "the mystery of Christ and the church" has taken place? What is then "blessed"? Given that in the case of marriage in the church, the couple is not permitted to alter the vows, there would appear to be an inconsistency—one that is sufficiently grave to raise doubts as to whether a civilly concluded marriage, subsequently blessed in church, always fulfils the intention of a Christian marriage.

### 5.2.7 The Purposes of Marriage

The basic form of heterosexual marriage as a divinely modelled covenant of love is further explicated by the traditional three purposes of marriage as set out in the exhortation at the beginning of the marriage liturgies. According to the 1962 *Book of Common Prayer*:

> *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.*

The 1985 *Book of Alternative Services* expresses the purposes of marriage this way:

> *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].*

The purposes of marriage, then, are:

- *companionship and support* ("mutual society, help, and comfort")
- *sexuality* ("the hallowing of the union betwixt man and woman," "that they may know each other with delight and tenderness in acts of love")
- *procreation* ("for the procreation of children to be brought up in the fear and nurture of the Lord")

It is worth noting that these three purposes are related in certain ways to the civil function of marriage as it has traditionally been practised in various societies: for the mutual help of the family unit, the regulation and enjoyment of sexual expression, and the promotion and control of procreation and child-raising. The question before us concerns whether the union of two persons of the same sex can fulfill the purposes of marriage as understood by the church.

*"The failure of the churches to hold firmly and without equivocation to the three classical reasons for Christian marriage results in the redefining of marriage to mean any kind of committed relationship, including same-sex partnering."*

D. Curry, Nova Scotia & Prince Edward Island

### 5.2.7.1 Companionship and Support

The creation of sexual differentiation in Genesis 2 stems from the insight that "it is not good that the *adam* be alone." God creates for the *adam* a partner (literally "a help alongside him").[59] This primary function of marriage thus includes both practical and economic help, but also emotional support, companionship, friendship. At the same time, the church has recognized from the beginning that marriage is but one form of community that can provide "long-term faithfulness and covenantal love."[60]

In practice there would appear to be no basis for denying that this aspect of heterosexual marriage can be present in same-sex couples to the same extent as in opposite-sex couples. The witness of many stable, committed, loving same-sex relationships is compelling.[61] It may even be that same-sex couples "are ahead of the majority population in exploring the longevity and sustainability of desire and tenderness that is neither upheld by the sanction of social endorsement nor cemented by the responsibility of offspring and nurture."[62]

*"Procreation, while it predates the fall, is the one original element of marriage that is not essential in the life to come, as Jesus and Paul intimate in their references to celibacy."*

D. Widdecombe, Rupert's Land

In the past, traditional Christian teaching, reflecting societal expectations, may have premised the "mutual comfort and support" on complementary gender roles: whether practical

[59] See section 5.2.3 above.

[60] See page 1 of the submission of Shawn Sanford Beck at http://www.anglican.ca/wp-content/uploads/2014/05/9-25-2014-Shawn-Sanford-Beck-Saskatoon.pdf.

[61] As gays and lesbians have become part of the fabric of our faith community, we have seen even more clearly their faithful struggle and witness to the challenges of Gospel living. Our faith community has been richly gifted by the breadth and depth of their faithfulness, discipleship, and struggle." Submission of St. Christopher, Burlington, Ontario, http://www.anglican.ca/wp-content/uploads/2014/05/9-24-2014-St.-Christopher-Burlington-Niagara.pdf, page 1.

[62] Samuel Wells, "Wholly holy: What does the identity of LGBT add to the identity of being Christian?" Lecture given at St. Martin-in-the-Fields, London, available at http://www.stmartin-in-the-fields.org/wp-content/uploads/Wholly-Holy-Jan-30-2013.pdf. Wells goes on to suggest that given the fact that LGBT people have been unable to draw on what has over the past 200 years held marriages together ("female economic dependence, short lifespans, low expectations of emotional fulfilment, and the social stigma of or legal impossibility of divorce"), the question is whether the church can sustain marriage in a changing world "without their wisdom and experience."

roles, in the traditional division of labour, or purported differences in emotional, intellectual, and physical gifts. These gender-differentiated roles are no longer seen as normative for heterosexual marriage in our culture; the majority of heterosexual couples would doubtless see them as an intrusive and clumsy mould that does not fit the manifold variety of gifts of two equal individuals. Similarly, a division of authority along gender lines is no longer held by the Anglican Church of Canada: the removal of the word "obey" from the marriage vows in the 1959 Prayer Book revision documents this change. It is difficult, then, to maintain that there must be a fundamental gender complementary inherent in marriage with respect to mutual society and help, unless we are willing to return our conception of heterosexual marriage to earlier norms.

#### 5.2.7.2 Children

Of the three purposes of marriage, procreation is obviously the most exclusively tied to heterosexuality. That the love of a couple can result in the creation and nurturing of a new life (a new "image of God") remains a sacred mystery that we celebrate in marriage.

*"Reason … supports the marital union of one man and one woman as a social and religious unit for the procreation and nurture of its children…"*

Anglican Communion Alliance

At the same time, procreation is not seen as a necessary condition of a genuine marriage. The church marries couples who desire to—but who know they cannot—bear children. Further, the marriage of couples who are unable to biologically conceive children and choose to nurture adoptive children, and the marriage of couples who choose to remain childless, are held to be marriages in the full sense of the word. The bracketing of this purpose in the marriage liturgy of the *Book of Alternative Services*, as something that can be omitted should the circumstances warrant, points to this conviction.

In its widest sense, the procreative purpose of marriage implies the capacity of couples to exercise love, nurture, and healing beyond their relationship to one another to others around them, to enlarge the couple's community. "Fecundity

(meaning fruitfulness and the capacity to give life) exists not only in families," writes Jean Vanier. "It is implied in all human relationships, especially those where one person cares for another."[63]

*"Relationships, other than married ones, cannot make the participants one flesh in the biblical sense, neither can they embody Christ being united with his church or the legitimate bodily union of man and woman resulting in the blessed procreation of children."*

G. Packwood, Calgary

Furthermore, "procreation" is only part of this purpose, as articulated in our authorized liturgies: the care and upbringing of children (their upbringing "in the fear and nurture of the Lord") is also mentioned. Indeed these duties demand considerably more investment from the couple than mere procreation, and for them particularly, it could be argued, the stability of marriage is beneficial. Many same-sex couples are already carrying out this purpose of marriage.[64]

#### 5.2.7.3 Sexuality

The traditional teaching of the church is that marriage is the authentic Christian context for sexual intimacy. One purpose of marriage is to provide an exclusive covenanted Christian relationship for that intimacy in tenderness and trust.

The importance of this relational context demonstrates that when we speak of sexual intimacy we are not speaking solely or even primarily about physical pleasure. Covenanted Christian sexuality (in different ways at different stages of marriage) addresses some of our deepest needs as human beings made in God's image: the need to be loved, to be cherished by another for who we are, to be seen and valued as a whole person, to be found beautiful.

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[63] Jean Vanier, *Our Journey Home: Rediscovering a Common Humanity Beyond Our Differences* (Maryknoll: Orbis Books, 1997), page 108. John Chrysostom's "Sermon on Marriage" applies the command to "be fruitful and multiply and fill the earth" within a limited context. "The earth, Chrysostom explains in the fourth century, is full; its population is enough." But "filling the earth" is qualitative as well as quantitative, "so that the Genesis command ends in 'dominion.' To Paul, as Chrysostom reads him, it suggests the qualitative fulfillment of history in the dominion of the Messiah. The command of creation is fulfilled, that is, when the Second Adam fulfills the promise of the first and brings the dominion of God." Good, Jenkins, Kitteredge, and Rogers, "A View From the Liberals," cited above, page 69.

[64] This discussion invites the church to further ethical reflection on reproductive technologies.

The Christian tradition registers a caution about the romantic tendency to expect erotic love to fulfill all of our desires. It maintains that our need to be loved can only fully be satisfied by the love (*agape*) of God. At the same time, within our human limitations, we are called to be vehicles of God's love to one another, and this applies as much to the erotic love of covenanted Christian partnerships as to our "agapic" communities, our churches. When embedded in commitment and fidelity, erotic love can be a powerful means of experiencing God's grace. Because the church recognizes that these needs touch on our deepest human vulnerabilities, they are most appropriately grounded in the commitment, fidelity, and permanence of Christian marriage.

It is evident that Christians of homosexual orientation share the same fundamental human need to love and be loved as do heterosexual Christians; yet their sexuality has an equally profound orientation, towards their own gender. It is not surprising, then, that some of them should seek the stability of a Christian covenant (as do many heterosexual Christians in Christian marriage) to be in a committed relationship, supported by their church and blessed by the one and same God they share with their fellow Christians. The church's traditional teaching views marriage as the appropriate context for living out sexual intimacy.

It is worth noting in this context that our church does not generally understand marriage as the blessing of sexual acts.[65] What is blessed is the couple, in all aspects of their relationship. It is then the members of the covenanted couple who together discover forms of sexual expression that bring joy and fulfilment, through mutual respect, tenderness, delight, and playfulness.

[65] There is a popular misconception that a marriage was traditionally held as valid only with consummation in (hetero)sexual intercourse. However, as David Neelands has observed (submission cited above), traditionally the validity of the marriage was actually in the making of public vows of consent before God, pledging troth through a visible symbol (the ring and joining hands) rather than consummation in sexual intercourse. Inability to consummate might be grounds for annulment, but consummation does not constitute validity. See also page 567 of the 1962 *Book of Common Prayer.*

### 5.2.8 Marriage as Sacrament

The understanding of marriage as a sacrament of the same order as those instituted by Jesus, namely eucharist and baptism, has been historically rejected in Anglicanism. The *Articles of Religion* distinguish baptism and eucharist as the "Sacraments of the Gospel" from the other five "commonly called" sacraments, of which marriage is one (Article XXV). Within this framework, some Anglicans have seen marriage simply as a "state of life allowed in the Scriptures." Others, in accord with the catholic tradition, have found it nonetheless useful to think of marriage in terms of the category of sacrament.

*"The sacramental aspect of a marriage resides in the couple's shared beliefs and common life, and not in the wedding ceremony proper. Marriage is sacramental for followers of Jesus Christ when their love for one another reflects God's love for the world, and is a thus a visible sign of God's goodness and a blessing for those around them."*

St. Michael's Church (Sillery), Quebec

The use of the word "sacrament" applied to marriage is based on the Latin translation of Ephesians 5:32, where it translates the Greek word *mysterion*:[66] "'For this reason a man will leave his father and mother and be joined to his wife, and the two will become one flesh.' This is a great mystery, and I am applying it to Christ and the church."

The "great mystery" to which the writer refers is the body of Christ as the basis of Christian love in marriage. Just as Christ has become "one flesh" with the church, so a married person is to love his or her partner, who becomes "one flesh" with them.

When we speak of marriage as a mystery, a kind of sacrament, it is because marriage is capable of reflecting the loving union of Christ and the church, something claimed of a variety of other mysteries from the earliest days of the church—for instance

[66] The *Oxford Dictionary of the Christian Church* gives the following definition of a sacrament:

> *The word is derived from the Lat. sacramentum, which was used to translate the Gk. μυστήριον ('mystery') in the Lat. NT; sacraments are thus means by which Christians partake in the 'mystery of Christ' (cf. Col. 1:26 f.; Eph. 3:4, 9; 6:19, etc.). The fundamental mystery is the Incarnation of Christ, and, depending on that, the Church, His Body, through which He communicates Himself to mankind. This communication is accomplished through certain symbolic acts (e.g. the washing of Baptism, the meal of the Eucharist) interpreted by the Gospel and the response of faith.*

However, it is worth noting that mysterion and its cognates are used some 28 times and in a variety of ways in the New Testament.

the harmonious cooperation of the "members of the body" (1 Corinthians 12, Romans 12). It is neither procreation—as wonderful and sacred a mystery as that is—nor sexuality in itself that is sacramental. Old Testament faith was developed in conscious opposition to the sacralization of fertility and of male and female principles in the surrounding religions, and the New Testament in no way goes back on that clear distinction. Ephesians sees the coming together of man and woman in "one flesh" to be a reflection of the love of Christ, but not through the sexual act itself surely (though that may symbolize it), but through the mutual love and tender care of the couple, reflecting the self-giving love (*agape*) of Christ for the whole world.

*"If we redefine and reconfigure marriage, we give up the only grasp we have of the ultimate union between God and humankind. What is even worse is that as we redefine the marriage relationship we will inevitably read ideas into the relationship between Christ and the church that are not true."*

P. Bristow, Toronto

How then should we assess the mutual love and tender care of same-sex couples, who have also left mother and father and come together to form a new family? Are these relationships also capable of "sacramentality," of signifying the Christian "mystery" of the love of Christ for his body the church? Do we recognize within same-sex covenants the same "great mystery"? Or are there grounds to argue that same-sex unions cannot reflect the love of Christ for the church in the same way, and therefore their inclusion in Christian marriage would somehow modify the analogy?

## 5.3 Models for Understanding Same-Sex Marriage

This survey of our biblical theological tradition has revealed two correlated clusters of meaning. One is grounded in the biblical creation accounts, a tradition that celebrates heterosexual love both as God's gift of companionship and the means of human procreation. The other represents a broadening of marriage as an exclusive covenant of Christian love, grounded in biblical redemption. While the latter is largely applicable to both opposite-sex and same-sex relationships, the former presents greater difficulties. We must now turn to several overlapping but alternative rationales which show how we might theologically ground extending the marriage canon to include same-sex couples.

Marriage is one sign of the mystery of Christ's incarnation, and of his love for his body, the church (Ephesians 5:25-32). Referring to the question asked above,[67] can same-sex marriage signify or reflect this mystery in the same way that heterosexual marriage can? If the answer is "*yes*," is our understanding of marriage changed, and if so, how? Is same-sex marriage essentially the *same* as heterosexual marriage? Is same-sex marriage completely *different* from heterosexual marriage? Or in what other way is same-sex marriage *related* to heterosexual marriage?[68]

*"Changing the church marriage canons to make same-sex relationships the same as marriage will result in a loss of the distinctiveness of both types of relationships."*

D. Boronowsky, Qu'Appelle

### 5.3.1 Same-Sex Marriage as an Undifferentiated Form of Christian Marriage

This is in effect the path taken by civil legislation, expanding the existing institution of marriage to include same-sex couples. In the context of the church, a parallel process would involve changing the language of the canon and the liturgy to gender-inclusive terms, thereby creating an institution that fits both heterosexual and homosexual couples in an identical fashion. This seems to be the intention of the 2013 General Synod resolution, at least with respect to the canon.

The strengths of this approach are its simplicity and its commitment to formal equality. It avoids any kind of "separate-but-equal" solution, which is often (and with some justification) distrusted as not truly equal. A case can be made for taking this approach with respect to the legal status of marriage, where clarity and simplicity are desirable, by drafting a gender-neutral canon that defines the couple's rights and responsibilities without distinction.

However, with respect to theological understanding richness, complexity, and differentiation are desirable traits, and it may

[67] See sections 5.2.3.4 and 5.2.8 of this report.

[68] Theologically, the terms are "univocal" (the same kind of thing), "equivocal" (completely different kinds of things), and "analogical" (similarities in difference). In the case of the latter, same-sex and heterosexual marriage are analogous not simply to each other, but to "the great mystery" (*sacramentum*) that is "Christ and the church" (Ephesians 5:32).

be that this model reaches its limitations. Further, this model would seem to change to some extent the definition of marriage for heterosexual couples. We should not exaggerate this change. As we have seen, almost all the key elements of the theological understanding of Christian marriage can also be meaningfully attributed to same-sex couples. However, it does remove the rich symbolism of heterosexual love from the definition of marriage, leaving the institution more abstract. Or, alternatively, if the heterosexual symbolism (or simply unconscious heterosexual assumptions) are retained, it would seem to force homosexual relationships into a heterosexual mode.[69] At least some couples (both heterosexual and homosexual) feel that they will lose something, that their own marriages or partnerships will be diminished, if the language and symbolism of marriage is reduced to the gender-neutral. Such impressions are often dismissed as ignorant or alarmist. Nonetheless, there may also be some wisdom in this feeling, which the church would do well to discern. Gender-neutral language may be the appropriate approach to the canon, as a legal document. However, removing references to "man" and "woman" in the liturgy (for example in the opening exhortation) could well be a theological impoverishment of the nature of Christian marriage.

*"We could declare that the canonical term 'matrimony' is equivalent to the [Civil Marriage] Act's word 'marriage.' Then we go on to say for purposes of canon law that 'matrimony' between persons of the opposite gender is 'marriage,' and matrimony between persons of the same gender is an 'espousal.' An espousal would not be what the Act calls an 'institution other than marriage,' which evokes a separate-but-equal problem. Rather, 'espousal' is part and parcel of the umbrella term 'matrimony' and passes constitutional muster by its equivalence to the civil term."*

H. Henderson, Ottawa

It is possible to make a theological case for an undifferentiated approach based on the order of redemption alone. That is to say, if marriage is a form of Christian community—a particular subset of the church, a school of love, where partners are called to be as Christ to one another, to practice self-sacrificial love in the context of a committed, lifelong, and erotic relationship—then one could argue that this happens regardless of gender or orientation, and is thus exemplified in same-sex couples as well

[69] Ironically this "inclusivist" basis may be "the most conservative of options." (Submission of David Widdecombe, cited above, quoting Robert Song). The submission of Dell Bornowsky (http://www.anglican.ca/wp-content/uploads/2014/05/9-30-2014-Dell-Bornowksy-QuAppelle.pdf) agrees, stating that "[C]hanging the church marriage canons to make same-sex relationships the same as marriage will result in loss of the distinctiveness of both types of relationships."

as opposite-sex couples. Asserting this as the principal meaning of Christian marriage within the Anglican tradition will be necessary in making an argument for same-sex marriage.

Yet the question remains: what does the undifferentiated approach say about traditional understandings of marriage in terms of the order of creation?[70] What do we do with the theological assessment of heterosexual love, rooted in the Genesis accounts, that runs through Hebrew Scriptures and much of the Christian tradition? It may be that this account of human sexuality is incomplete, that it needs to be supplemented by also understanding homosexual orientation as part of God's good created order. This approach goes further, however: in reducing all marriages to a common denominator, it is unable to articulate the specific gifts of heterosexual love, as celebrated in the tradition. Likewise it risks excluding Christian homosexuals who

[70] The issue of the significance and integrity of the created order has been raised insistently by opponents of same-sex marriage. For example: "Christians ought to understand the resurrection to be the renewal of the created *order,* but this created order retains its meaning and form; it is, after all a created order. What has been done away with is not the order of creation but the futility of sin, our inability to restore our damaged relationship with God. Now this continuity of the created order includes human nature as created by God, and so the divine intention of the union of male and female in one flesh. This entails the social, psychological, and physical union, including the fruitfulness of childbearing as part of the order of creation. The citation by Jesus in Mark 10 (and parallels) of this Genesis passage reaffirms the perpetual continuity of this principle of creation. Living in the hope of the resurrection of the body reminds us that God is restoring creation, not abolishing the old and replacing it with something very different. The world that God is and will be renewing retains its intended shape. … It follows then that when we think about marriage and family we need to think about God's work in creation and in redemption as aspects of a single gracious intention for us. As St. Irenaeus struggled against the Gnostics, we hold creation and redemption closely together. This is no less true when we think about the gift of marriage within the new dispensation of grace." Goldingay, LeMarquand, Sumner, and Westberg, "A View from the Traditionalists," cited above. The concern that the connection between the order of creation and the order of redemption not be lost is a valid one, and might caution against an undifferentiated approach that reduce hetero- and homosexual relationships to the lowest common denominator. The question still remains however whether the order of creation is unremittingly heterosexual, imposing heterosexuality as a standard on every individual (a view that can only see homosexuality as a sin); or whether the order of creation is perhaps more complex and differentiated than we had originally understood, leaving room for homosexuality as part of the natural diversity in which God created human beings.

understand same-sex unions to be theologically and experientially distinct.

It is certainly the case that heterosexual marriage, in the fallen context of patriarchy, is often faulted and in need of redemption. It is equally the case that Christian theology must guard against any sacralization of heterosexuality, which has its place in fertility cults, but not in the Judeo-Christian tradition. Despite these caveats, Christian theology should be wary of abandoning the rich imagery and experience of heterosexual love. Rather than generalizing marriage to a greater level of abstraction, should we not celebrate the specificity of heterosexual love as a gift of God—and so open the door to celebrate the specificity of homosexual love as a gift of God as well?

### 5.3.2 Same-Sex Unions as Blessed Partnerships

At the opposite end of the spectrum is the possibility of blessing same-sex civil marriages, without a specific covenanting of the couple. This is, in effect, the status quo in many dioceses. Clearly it is the intention of the General Synod, in asking for this motion to be brought forward, to consider moving beyond this practice to a solemnization of same-sex marriages. Nonetheless, this position should be considered theologically. What is wrong with the status quo?

This approach has the apparent advantage that it runs no risk of redefining traditional heterosexual marriage on the one hand, or of patronizing the experience of same-sex partnerships on the other. No one need fear that marriage has changed; it retains the symbolic and experiential aspects rooted in the creation account, while at the same time affirming same-sex couples.

From a theological point of view, the problem with this approach is that, while it retains the meaning of marriage according to the order of creation for heterosexual marriages, it does so at the cost of denying to homosexual couples the "sacramental" significance of marriage according to the order of redemption. We have in

*"Same-sex marriage is something new and different from anything we have known before, or certainly before anyone brought this concept into public discussion. So why would we not develop an entirely new way to address what they are talking about—especially since the word marriage, in the biblical sense, means between a man and a woman?"*

M. Scott, Kootenay

fact seen a concrete expression of this problem in the form of the liturgy for the blessing of heterosexual civil marriages according to the book of *Occasional Celebrations*, which quite specifically forbids the exchange of vows. [71]As a blessing without vows, this model does not acknowledge the relationship's potential to be a place in which the couple exercises their vocation of Christian love by striving to be as Christ to one another in covenanted love.

### 5.3.3 Same-Sex Covenants as a Differentiated form of Christian Marriage Covenant

How can we recognize and celebrate covenanted, same-sex relationships as fully partaking in the covenantal aspects of marriage within the order of redemption, while honouring both the specifics of heterosexual love rooted in the order of creation, on the one hand, and the uniqueness of same-sex theology and experience, on the other?

We have suggested in the preceding sections that same-sex marriage is most productively understood neither as completely *identical to*, nor as completely *different from*, traditional heterosexual marriage. That leaves the possibility of an *analogous* relationship between traditional and same-sex marriage. The difficulty with speaking of analogy, however, is that it says very little about how closely and fundamentally the two are related. Well-formulated analogies illumine both elements being compared. Poorly formulated analogies are weak, or vague.[72] We require an analogy strong enough to express a shared, even substantive, *identity* between same- and opposite-sex relationships. And we require an analogy clear enough to respect the *difference* between same- and opposite-sex relationships, while retaining the same covenantal language. A well-formulated analogy in our case will illumine and affirm both the uniqueness and the relatedness of same- and opposite-sex relationships.

[71] See footnote 55 above and Section 5.2.6 of this report.

[72] So, for example, the *St. Michael Report* speaks rather vaguely of an analogous relationship between same-sex blessings and marriage. Moving from blessings to same-sex marriage requires that the nature of this analogy be explored and found to involve a substantive identity.

Analogical relationships unfold within the biblical narrative in a process of typological recurrence. Typology is the figure by which particular symbols or events recur at different points in biblical history, and are invested with new meaning. For example, the crossing of the Red Sea is echoed and transformed in the crossing of the Jordan (Joshua 3); in the return from Babylonian exile (Isaiah 43:16-19); and in baptism (1 Corinthians 10:1-2). Related typologically, the Jewish exodus and Christian baptism each retain their unique identities, but are also connected: exodus anticipates baptism, while baptism opens up new dimensions within the exodus (such as the passage from death to life). Yet both actions signal the operation of divine grace. Typological thought may be a helpful tool in thinking about same-sex marriage, in that it incorporates a historical dimension. The question is not whether or not same-sex relationships are marriage, in some absolute, abstract sense. It is, rather, about the possibility that same-sex couples may be adopted into an existing institution of Christian marriage, enriching and expanding its meaning, yet without denying its previous meaning.

*"Just as the heart of the early church was opened to the Jesus-oriented life many Gentiles were embracing without 'becoming Jewish', so too have the eyes of today's church been opened to the faithful, Spirit-led Christian lives of many gay, lesbian and transgender people who live as they were created."*

St. Christopher's Church (Burlington), Niagara

A theological analogy to this process of adoption is that of the inclusion of the Gentiles within the original covenant with Israel. Acts 10 has been invoked to support the full inclusion of gays and lesbians in the church.[73] The two situations show significant structural parallels that may provide us with a model to think both full inclusion and distinct identity together:

- In both cases there is a long history in which it was believed that a particular grace was given only to one group of people to the exclusion of others;

[73] See Good, Jenkins, Kittredge, and Rogers, "A View from the Liberals," cited above, pages 54, 57, and 77. See also the submission of St. Christopher, Burlington, Ontario, also cited above: "Just as the heart of the early church was opened to the Jesus-oriented life many Gentiles were embracing without 'becoming Jewish,' so too have the eyes of today's church been opened to the faithful, Spirit-led Christian lives of many gay, lesbian and transgender people who live as they were created."

- In both cases there is a recognition that God's grace is broader than we had assumed, and that those who had been excluded are now being invited in;
- The "adoption" or "grafting in" is seen as on some level contrary to nature (*para physin*, Romans 11:24), yet nonetheless is of God;
- The task for the church in both cases is to discern whether this reorientation to greater inclusivity stems from a genuine movement of the Spirit;
- In both cases this inclusion is not completely on the same terms as the original group: as Gentiles are not called to observe Torah, so same-sex marriages do not share in precisely the same tradition of sexual expression (and its symbolic import) as heterosexual marriage;
- They do nonetheless share in the fundamental nature of the same covenanted grace (in the case of Acts 10 the covenant with God, in the present context the covenant of partners as a reflection of this primary covenant);
- Finally, the inclusion of the new group does not invalidate the earlier covenant as wrong or no longer relevant; like the Torah, the original understanding of the heterosexual structure of marriage, rooted in the creation accounts in Genesis, remains fully in effect for those to whom it applies.

One might object to this parallel that the inclusion of the Gentiles is a salvation-historical event of unique significance, such that not every proposal for inclusion can be equated with it.[74] Indeed, it is important to note the centrality of the reconciliation of Jew and Gentile to the redemptive work of Christ, and the foundation of the church (Ephesians 2:11-22). Yet the unique significance of

[74] "(i) The inclusion of the Gentiles was the fulfillment of prophetic hopes (see, for example, Isaiah 2:2–4), while there is no such warranted Old Testament hope in the case of homosexual relations; (ii) the opening to the Gentiles followed the decisive act of Christ at the turning of the ages. In contrast to them, we should not presume ourselves apostles at a new turning of the ages…." Goldingay, LeMarquand, Sumner, Westberg, "The Traditionalist Response," cited above, page 94.

the inclusion of the Gentiles does not mean it cannot continue to echo as a type or analogy of Christ's ongoing work of reconciliation and inclusion in the life of the church. The church does not need to discern that same-sex marriage is an event of equal importance to the inclusion of the Gentiles, but it does need to discern whether it is a consequent development of the same redemptive action of Christ.

In practical terms, it seems to us that this theological understanding would be compatible with the revision of the canon to include same-sex couples (as called for in the resolution of the General Synod). It would suggest a liturgy that allows for variation in the theological background and symbolism between same- and opposite-sex marriages[75], while retaining identical core texts, such as the vows.[76]

## 5.4 A Biblical and Theological Rationale for Same-Sex Marriage: Conclusion

The above discussion attempts to show how it is theologically possible to extend the marriage canon to include same-sex couples, without thereby diminishing, damaging, or curtailing the rich theological implications of marriage as traditionally understood. We have attempted to identify the dangers of overly

[75] Such is the case in the variable eucharistic prayers and alternatives in the burial rite according to pastoral circumstances.

[76] To some it could suggest that what is called for is a separate same-sex covenantal rite (within the current marriage canon or another shared or parallel canon). This could draw on both the uniqueness of the same-sex partnership experience and shared biblical-theological covenantal commitments and language. The advantage of this approach would be that the existing definition of marriage for heterosexual couples would remain unchanged, while at the same time same-sex covenants would be blessed and respected on their own terms. Introducing same-sex covenants as a distinct institution would allow the church at the very least to remain agnostic on this question of identity, if not implying a fundamental difference. Some might see this as an advantage of this approach: it allows the church to accommodate same-sex couples, while leaving time for further discernment about how exactly it relates to heterosexual marriage. However, questions remain as to how precisely such an institution would be different from the institution of marriage given that the vows would presumably have the same content as those exchanged by heterosexual couples: the promise of love, fidelity, and permanence, for the purpose of mutual companionship and support, sexual giving, and child-rearing.

simplistic solutions, and propose a model that is consistent with Christian thought as understood in 5.1.1.

To say that it is theologically possible to make this change is not to say that the change is theologically desirable. We have attempted to show how it might be done—not why or even whether it should be done. These questions require more than theological argumentation: they require an act of corporate discernment. Abstract principles of equality are not sufficient ground in themselves, nor are pastoral considerations alone, as important as these are. In fact the analogy to the inclusion of the Gentiles in the covenant suggests that the church would want to discern a specific act of grace.

*"I am deeply concerned for the future of our Church, our witness to Christ among the nations and the incredible strain that is currently felt by everyone in the Anglican Church of Canada. It is through faith in Christ and the power of the Holy Spirit that we are bound to one another. I hope and pray that this bond will not be broken."*

D. Neufeld, Athabasca

There are reasons to believe that this might be the case. The expansion of the definition of marriage in the New Testament as a discipline of Christian love has prepared the way. The logic of the inclusion of the marginalized that runs through Scripture should alert us always to this possibility. The growth in our understanding of human sexuality, both scientifically and interpersonally, helps us to lay aside prejudices and misconceptions. The pastoral need of those rejected by society and church, particularly gay youth, should drive us to seek reconciliation. Finally, the experience of same-sex committed partnerships in our midst, clearly manifesting God's blessing and the fruit of the Spirit, are a powerful indication that God's view of marriage may be more inclusive than ours. However, it is finally a decision that the church will have to reach, not by arguments alone, but by prayerful discernment of the movement of the Spirit in our midst.

*"Who does the Anglican Church of Canada choose to follow? I choose Christ. I hope you will too."*

N. Wilson, Saskatoon

# 6 Conclusion

The Commission on the Marriage Canon commends this report to the Council of General Synod, confident in having fulfilled the "daunting" task it was handed to the best of our abilities. We carried out a broad consultation, both within and outside the membership of our church; we considered implications for the Solemn Declaration; we sought a legal opinion on the inclusion of a conscience clause; and we have provided a biblical and theological rationale for same-sex marriage that we believe to be faithful, consistent, and coherent with the Anglican tradition.

We have also, as directed by the commission's terms of reference, provided for the consideration of the Council of General Synod the wording of a motion for the revision of Canon XXI to make provision for the inclusion of same-sex marriage in the church.

We each came to this task from different parts and traditions of the church, but with open minds and a sincere willingness to hear each other and the various other voices who have been a part of this process. We hope those various voices hear something of themselves reflected back in the content of this report. We are grateful to all those individuals and organizations who responded to our request to offer their reflections on the matter before us.

The members of the commission have, throughout this process, been acutely aware of the responsibility placed before them, and are thankful for the support they received from the General Synod throughout their deliberations. Having been supported through these months by the prayers of so many across this church, we now offer our prayers for those now charged with discerning the next steps.

*Almighty and everliving God,*
*source of all wisdom and understanding,*
*be present with those who take counsel*
*for the renewal and mission of your church.*
*Teach us in all things to seek first your honour and glory.*
*Guide us to perceive what is right,*
*and grant us both the courage to pursue it*
*and the grace to accomplish it,*
*through Jesus Christ our Lord.*

**Members of the Commission on the Marriage Canon**

Canon Robert Falby, QC, Chair, Diocese of Toronto*
Dr. Patricia Bays, Diocese of Ottawa
The Very Rev. Kevin Dixon, Diocese of Huron (until November 2014)
The Rev. Dr. Paul Friesen, Diocese of Nova Scotia and Prince Edward Island
The Rev. Paul Jennings, Diocese of Nova Scotia and Prince Edward Island
Dr. Stephen Martin, Diocese of Edmonton
The Rt. Rev. Dr. Linda Nicholls, Diocese of Toronto
The Most Rev. Dr. John Privett, Diocese of Kootenay

The Ven. Bruce Myers OGS, Clerk, General Synod staff

**Canon Falby died on June 8, 2015.*

# Appendix A:
# Draft Resolution

**DRAFT RESOLUTION**
**for possible**
**AMENDMENTS TO CANON XXI**
**(On Marriage in the Church)**
**as requested in Resolution C003 from**
**General Synod 2013**

Moved by _____
Seconded by _____

Resolved that:

1. This General Synod declare that Canon XXI (On Marriage in the Church) applies to all persons who are duly qualified by civil law to enter into marriage.

2. The following consequential amendments be made to Canon XXI:

   a. in paragraph 2 of the Preface, delete the words "of the union of man and woman in";

   b. in paragraph 4 of the Preface, substitute the word "partners" for the "husband and wife";

   c. in section 16 a) of the Regulations, substitute "the parties to the marriage" for "a man and a woman";

   d. in section 17 b) of the Regulations, substitute "the partners" for "husband and wife".

3. The following be added to section 11 of the Regulations:

   a. A minister shall not solemnize a marriage between persons of the same sex if:

      i. the diocesan synod has enacted a Canon to prohibit the solemnization of marriages between persons of the same sex in the churches and other places of worship in the diocese by any bishop or member of the clergy licensed in the diocese;

      ii. the diocesan bishop has issued a written and public direction prohibiting the solemnization of marriages between persons of the same sex in the churches or other places of worship in the diocese by any bishop or member of the clergy licensed in the diocese; or

      iii. the congregation has passed a resolution at a duly constituted meeting of the members of the congregation prohibiting the solemnization of marriages between persons of the same sex in the congregation's church or other place of worship.

   b. Provided that none of the provisions of paragraph 11 e) applies, where a minister under paragraph 11 d) declines for reasons of conscience to solemnize a marriage between two persons of the same sex, the minister shall refer the persons to another priest and permit that priest or another priest to solemnize the marriage in the minister's church or other place of worship.

4. This resolution shall come into effect on the first day of January after being passed by General Synod at Second Reading.

# Appendix B:
# The Solemn Declaration of 1893

In the Name of the Father, and of the Son, and of the Holy Ghost. Amen.

We, the Bishops, together with the Delegates from the Clergy and Laity of the Church of England in the Dominion of Canada, now assembled in the first General Synod, hereby make the following Solemn Declaration:

We declare this Church to be, and desire that it shall continue, in full communion with the Church of England throughout the world, as an integral portion of the One Body of Christ composed of Churches which, united under the One Divine Head and in the fellowship of the One Holy Catholic and Apostolic Church, hold the One Faith revealed in Holy Writ, and defined in the Creeds as maintained by the undivided primitive Church in the undisputed Ecumenical Councils; receive the same Canonical Scriptures of the Old and New Testaments, as containing all things necessary to salvation; teach the same Word of God; partake of the same Divinely ordained Sacraments, through the ministry of the same Apostolic Orders; and worship One God and Father through the same Lord Jesus Christ, by the same Holy and Divine Spirit who is given to them that believe to guide them into all truth.

And we are determined by the help of God to hold and maintain the Doctrine, Sacraments, and Discipline of Christ as the Lord hath commanded in his Holy Word, and as the Church of England hath received and set forth the same in 'The Book of Common Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church, according to the use of the Church of England; together with the Psalter or Psalms of David, pointed as they are to be sung or said in Churches; and the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons'; and in the Thirty-nine Articles of Religion; and to transmit the same unimpaired to our posterity.

# Appendix C:
# Terms of Reference of the Commission

## Mandate

General Synod 2013 enacted Resolution C003 that directs the Council of the General Synod to bring to the floor of General Synod 2016 a Motion that would amend Canon XXI ('On Marriage in the Church') so as to enable same-sex marriage in our Church. This Resolution further directs that there be a broad consultation within our Church about the preparation of the Motion, and consideration of particular matters specified in the Resolution. Resolution C003 is set out below.

The Council of the General Synod has established this Commission in order to carry out this consultation.

## Membership

The members are to be appointed by the Primate and Officers of the General Synod prior to the end of December 2013.

## Terms of Reference:

1. The Commission will consider and prepare documentation about the following matters specified in General Synod Resolution C003:

   a. the Solemn Declaration in relation to this matter;

   b. the immunity under the civil law and the Human Rights Codes of the various Provinces and Territories within Canada of those bishops, dioceses and priests who refuse to participate in or authorize the marriage of same-sex couples on the basis of conscience; and

   c. a biblical and theological rationale for this change in teaching on the nature of Christian marriage.

2. In conformity with the Resolution of the Council of the General Synod establishing this Commission, the Commission will submit a Progress Report on its work (including its consultation) to the spring 2014 meeting of the Council of the General Synod.

3. The Commission will submit its final Report to the fall 2015 meeting of the Council of the General Synod. This final Report will take into account the Commission's consideration of the submissions made to it. This final Report will provide to the Council its recommendations in regard to the matters specified in General Synod Resolution C003 (section 4 of these Terms of Reference) and this Report will include:

    i. a recommended wording of the enabling Motion called for in General Synod Resolution C003; and

    ii. a recommended wording of the conscience clause called for in General Synod Resolution C003.

4. The Commission will invite signed written submissions on the matter of amending Canon XXI ('On Marriage in the Church') so as to provide for same-sex marriage in our Church from any member of the Anglican Church of Canada who wishes to make such a submission.

5. The Commission may invite submissions from specific individuals or groups on the overall question or on particular points that the Commission is considering, and may appoint advisors to assist it in any aspect of its work.

6. In order to ensure the credibility of the Commission and the transparency of its work, all submissions to the Commission will be posted on the national Church's website.

7. The Officers of the General Synod, in consultation with the members of the Commission, shall appoint a Clerk who will be responsible for the general administrative work of the Commission, who shall be responsible to and under the direction of the Chair of the Commission.

# Appendix D: Resolutions

## General Synod 2013 – Resolution C003

That this General Synod direct the Council of General Synod to prepare and present a motion at General Synod 2016 to change Canon XXI on Marriage to allow the marriage of same sex couples in the same way as opposite sex couples, and that this motion should include a conscience clause so that no member of the clergy, bishop, congregation or diocese should be constrained to participate in or authorize such marriages against the dictates of their conscience.

This motion will also include supporting documentation that:

a. demonstrates broad consultation in its preparation;

b. explains how this motion does not contravene the Solemn Declaration;

c. confirms immunity under civil law and the Human Rights Code for those bishops, dioceses and priests who refuse to participate in or authorize the marriage of same-sex couples on the basis of conscience;

d. provides a biblical and theological rationale for this change in teaching on the nature of Christian marriage.

## Council of the General Synod Resolution – November 2013

### Preamble

The General Synod has enacted a Resolution directing this Council to prepare a Motion enabling Same-Sex Marriage in our Church, and that the Council place this Motion before the 2016 session of the General Synod for its consideration.

Further, this Resolution directs that there be a consultative process carried out in the Canadian Church; the results of which the Council will consider in writing the text of the enabling Motion to be placed before the 2016 General Synod session.

## Motion

Be it resolved that, in conformity with the General Synod Resolution in regard to the preparation of a Motion to change Canon XXI on Marriage:

1. That this Council establish a Commission to carry out a consultative process as directed by the General Synod;

2. That this Commission report to this Council its findings and any recommendations as to what matters the Council should consider in writing the text of the directed enabling Motion;

3. That the Primate and the Officers of the General Synod appoint the members of this Commission before December 31, 2013; and

4. That the Commission bring a progress report to the next meeting of this Council as to how it is carrying out its work.