

Study Committee on Cohabitation Table of Contents

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Summary Report

Our churches increasingly encounter people who choose to live together in relationships that look like marriage but do not have religious or civic certification as such. As views toward marriage change in our surrounding culture, our church councils feel challenged by situations in which the church's traditional values appear to be in conflict with the values lived out by some of its members. When dealing with such cases, churches and councils struggle to find ways to be caring yet faithful to scriptural norms. To help equip councils for this struggle, and in response to an overture to Classis B.C. Northwest in 2004, a study committee was appointed.

1. The Committee's Mandate

The overture called for a committee to *"study the issue of cohabitation or common law living from a Biblical perspective"*. In addition, the committee was asked:

- to evaluate the reasons why cohabitation/common law living is so popular in our society and review statistics to determine if these relationships are usually lasting ones, and
- to recommend guidelines on how church councils should deal with members and regular attenders who cohabit or live in common law relationships.¹

2. Defining marriage and cohabitation

The committee felt a good place to begin is with some definitions. Denominational materials state: *"Marriage is an institution created by God. It is a covenant relationship established by mutual vows between a man and a woman united by God."*² The committee's working understanding of cohabitation, taken from the overture was: *"any unmarried, heterosexual couple who consistently share a common residence and engage in sexual intercourse."*³ That essentially implies couples who live in what for all appearances is a marriage relationship, but without a Christian covenant ceremony sealing it, and/or without formal civil certification by license or banns.

3. The Purpose of Marriage

Your committee, finding the denominational forms for marriage ceremonies a great help, agrees that the purpose of marriage as institution is:

- to enable mankind to be fruitful and multiply and fill the earth, and
- to enrich not only the structures of society itself as a whole, but especially
- to enrich the lives of those entering into the relationship of marriage by providing mutual comfort, companionship, and a place for the loving expression of their God-given desires.

Christian Marriage has the further purpose of advancing the Kingdom of God by creating a secure environment within which to raise God-serving children. Beyond that, Christian marriage also functions as a symbol of the union of Christ and the church.⁴

¹ For a copy of the complete overture, please see Appendix A *"The Overture"*

² Denominational statements found on CRCNA.org web site

³ This is the definition used in the overture from Smithers

⁴ This is fleshed out in more detail, with scripture references, in the full report.

4. Examples of how the problem is experienced, with indications of why cohabiting is popular.

Cohabiting (as the overture defined it) is practiced across the age spectrum. Teens and young adults cohabit, as do seniors. However, the reasons for doing so appear to change according to the ages of those cohabiting. The young seem to have more distrust of – or simply feel less need for – the institutional components of marriage. They express more of a desire to “be sure this relationship will work before we commit for life.” Older cohabiters point to financial reasons (one or the other would have to give up some source of income if married), or family reasons (children not adjusting well to the idea of a new spouse). There are various other reasons given, but these seemed to be most frequent in the examples encountered.

5. The Key question: What exactly constitutes a Marriage?

The question that the Committee spent most time wrestling with is this: what act or rite (if any), and what level of public commitment (if any) is it that definitively establishes the union of a man and a woman as "one" in the eyes of the Lord? (A list of options is offered for consideration in the full report). Cohabiting couples have some of the key elements of marriage in place but not others. For instance, they, by our given definition, are sexually intimate – one of the elements. But they also reject other features of matrimony, such as a congregational ceremony before God and his people. Does the lack of a civil ceremony, or a church ceremony, or some other component of public commitment, make it no longer a marriage in God's eyes? The answer to that question seems crucial to how church councils approach and deal with members who cohabit.

While the Bible gives good direction as to what makes a marriage pleasing in God's sight, it does not directly address the issue of what constitutes the start of a marriage. A review of history is helpful to gain some understanding as to what constituted marriage throughout the ages.

6. Historical Summary ⁵

Marriage has existed for most of human history as a social agreement between two families or clans. It was a social contract. This was the case within God's people and many of the peoples around them in Old Testament times. Religion seems to have played little role in these customs, aside from prescribed behaviors within the marriage relationship itself.

Over the early centuries after Christ, religious leaders gradually began to play a greater role in endorsing marriages involving Christians. Civil government involvement increased as well. By the Middle Ages, the institutional church in Europe had gained enough political power that it was governing marriage ceremonies. Gradually marriage made a shift from the realm of social contract to that of a civil and/or ecclesiastical institution. It is in this time that churchmen began to argue that marriage was in fact a sacrament instituted by God.

The Protestant Reformers rejected the notion of marriage as a sacrament. For Reformed folk, marriage was essentially a civil or social contract with church participation or blessing as a desirable but non-essential addition. State-performed marriage remained an option. For those who did not have the means to cover the expense of the required ceremonies, the social covenant model remained the norm.

⁵ This section of the Report relies heavily on a paper by Bert denBoggende, attached to the report as Appendix 3

Studious tracking of the institution of marriage through Bible times, through Western European history, and into North American society shows that we can talk in terms of three models:

1. A social covenant marriage model within local communities and families; such a marriage may stand alone, or include some legal or religious components. (a mixed model)
2. An ecclesiological (or church-regulated) marriage model which rejected as invalid any marriage without church sanction, and which came to stress marriage as a sacrament.
3. A state/legal model, which validates marriage as a legal contract between families or two mutually consenting individuals and tolerates religious elements as cultural features.

7. Key Question Elaborated

When our modern congregations face the issue of people cohabiting, we are often dealing with people who are functioning within a modern version of the social covenant model, something we might call a two-individual covenant model, since society as represented by the family or the community has little involvement. A crucial question becomes this: is such a model an offense to God and thus to the church?

To address that question, each council must determine what the essential components are that “initiate” or make a marriage.

Your committee has been unable to fully answer this question. A case could be made, based on an analysis of Western history, that the social covenant model is especially offensive to churches that perceive marriage as a sacrament or that want to gather and hold political power. Reformed believers don't see it as a sacrament, and we don't see the church as a place to gather political power and use it to hold people subservient - to make them obey. But it is also true that some form of mutual accountability between the faith-professing couple and its faith community seems vital, and that it is missing in most modern forms of the social/individual covenant models. How do we best encourage and emphasize accountability and covenant before God and God's people? Is there space to acknowledge that God and His Word leave room for variations on what we call marriage? Could we agree that certain forms of the social covenant may not actually be offensive to Him? Could we, as a church in a changing time, understand a variety of types of “marriage” practiced in our culture as lying within a continuum, a continuum with its ideal end the perfect, loving, covenant relationship between Christ and his bride - the church -- but nevertheless including the various hard to categorize coupling relationships we encounter as councils? This fresh discussion needs to be held in the church. Your committee has had portions of it, but not enough discussions to definitively answer the question.

8. Guidelines on how to deal with problem situations

When the church encounters new believers who are not familiar with the church's understood purposes and goals for marriage, or deals with believers married to those who do not adhere to these ideals, or meets with folks who refuse to follow that model, we definitely feel challenged and uncomfortable. We want to be compassionate, we want to bring people toward the ideal, and we don't want to be difficult or harsh if it can be avoided. Each encountered cohabitation situation will have unique features and circumstances to consider. We always begin our task with humility before God. The current situation calls us to reflect anew about what we expect marriage to look like.

Your committee affirms the ideals laid out by the Christian Reformed church as purposes for marriage that are valid and good. We find it helpful to start with the understanding that all “troth” or marriage-like relationships are somewhere on a continuum and all couples need to be

encouraged towards God's ideal. There may be situations in which a congregation should accept that the relationship they are dealing with is far from the ideal and may not move much. Other couples may, through conversation, prayer and a study of God's word, and without coercion except by the Holy Spirit speaking through the word and the clear love of his people, realize they need to make a change. Such experiences are common in church plants across the continent.

Given these experiences, some questions that reveal the nature of the specific cohabiting situations should shape the pastoral approach the council takes toward a cohabiting couple. For instance, is the chosen form of relationship primarily the response to past wounds, or is it principally a defiance of custom? If the couple rejects traditional marriage because of past wounds, such as the pain of loss to death or divorce, or past abuse, a different approach should be taken than if their relationship is an outright rejection of the church's position, or of God's authority. Defiance of God's authority is serious. Defying custom is inconvenient, but allows for some leeway. In each individual case, the core issue would need to be identified and worked with. The real issues may be unrelated to the choice against traditional marriage. Imposing a strict requirement for compliance in such situations could increase the damage. There is a danger of the church setting such clear filters and fences in place that they never have the "burden" of dealing with messy situations. In humility we acknowledge that our Lord seemed particularly drawn to the messy situations, such as with the Samaritan woman at the well, and churches would be wise to check if we are merely scaring away the messy people.

9. Concluding Comments

One thing we are sure of when it comes to dealing with cohabitation and marriage. It is a complicated subject, with many other issues woven into it. Your committee, when it began its work, quickly saw how much information there was to be processed, how broad a subject we were dealing with, and soon found out how hard it is to be sharp and clear on the matter. The fact is, though we had much fruitful exchange between us, and all learned much from the reading and research, yet we are left with a feeling of just having scratched the surface. We had to let one Classis meeting pass because we were unable to pull all we had into a report, and even in this report we are offering rough and somewhat arbitrary advice, knowing that churches are waiting for guidance for real life situations they are trying to sort through. We have answered a call for help with a Question. That may not at first seem like the desired kind of help. Yet we feel it is where we must start.

Classis Alberta North grappled with this question before we did, and their report is helpful, so we are including it in ours as Appendix 2. Its main helpfulness is in clarifying the 'standard' approach the Christian Reformed church has taken to the question of cohabitation.

A report prepared by Bert denBoggende for First Hamilton CRC years ago was an eye opener for most of us, and brought home the call for an approach guided by humility. Reading it showed us that today's expectations of how marriage is sanctioned by the church is relatively recent. His paper moved us in the direction of questioning what ceremony (if any) or what form of commitment must be made to begin a marriage relationship or a marriage-type of relationship that is pleasing to God. His report is attached as Appendix 3.

We met most of the quests of the original overture. Key biblical references are found throughout the full report, (which will be mailed out in a few weeks), reasons people cohabit are explored, guidelines for dealing with them given. One area we chose not to go into was the area of statistical study. We simply were already inundated with information and did not want more on our plate.

It is our sincere hope that what we have pulled together in this summary and in the full report will well serve the Christian Reformed churches in Classis British Columbia North West. We have been educated and enlightened in our service to our Lord's church in preparing it.

Humbly submitted:

The Committee

The committee consists of the following members:

Rev. Peter VanderBeek, *Pastor, Mundy Park Christian Fellowship, Coquitlam, BC*

Virginia Lettinga, *Campus Chaplain, University of Northern British Columbia, Prince George, BC.*

Harry Kruisselbrink, *Elder, Smithers Christian Reformed Church, Smithers, BC*

Rev. Peter Sinia, *Pastor, New Westminster Christian Reformed Church, New Westminster, BC*

Janet MacPhee, *Minister of Outreach, First Christian Reformed Church, Vancouver, BC.*

Full Report

Introduction and Background

In an era when many institutions of society are undergoing change, our churches are increasingly involved with people who choose to live together in relationships that from the outside look much like what we traditionally called marriage but are not. These relationships often exist without certification by either civil authorities or a church ceremony. We are accustomed to those being required for a marriage to be recognized by the church.

As views toward - and practices of - marriage change in our surrounding culture, our church councils feel seriously challenged in dealing with such situations in which the church's values appear to be in conflict with the values lived out by some of its members and affiliates. In their struggles with this, churches find there are a wide range of varying situations to deal with, and few resources to help guide them. The practice of cohabitation without 'certification' -- also known as living common-law -- presents itself in a range of scenarios from youth 'trying it out' to seniors living together for personal, practical convenience and various options in between. While we have official position statements on homosexuality and on marriage and divorce to guide us in those situations, there are no official denominational guidelines on cohabitation situations. It is difficult for individual councils to discern when sanctions or disciplinary steps are needed in dealing with individuals in a particular relationship. As councils struggle with this issue there is often a wide range of interpretation as to what is scripturally required to constitute a marriage.

In the fall of 2004 the Smithers Christian Reformed Church submitted an overture to Classis BC NorthWest asking for help in dealing with the issue. In it they stated that councils could benefit from a thorough study of what scripture says about marriage and cohabitation. That overture was approved at the September 21-22 meeting of Classis BCNW, and a committee was struck to *"study the issue of cohabitation or common law living from a Biblical perspective"*.

1. The Committee and its Mandate

The committee consists of the following members:

Rev. Pete VanderBeek, Pastor, Mundy Park Christian Fellowship, Coquitlam, BC.

Virginia Lettinga, Campus Chaplain, University of Northern B.C., Prince George, BC.

Harry Kruisselbrink, Elder, Smithers Christian Reformed Church, Smithers, BC.

Rev. Peter Sinia, Pastor, New Westminster CRC, New Westminster, BC.

Janet MacPhee, Former Minister of Outreach, First CRC, Vancouver, BC.

The committee was mandated to study the issue as stated above. In addition, the committee was asked to:

- I. evaluate the reasons why cohabitation/common law living is so popular in our society, reviewing statistics to determine if these relationships are usually lasting ones, and

II. recommend guidelines on how church councils should deal with members and regular attenders who cohabit or live in common law relationships. ⁶

Your committee gathered information, including: studies and reports by others, denominational studies, articles found on the web, books on the subject, along with anecdotal accounts from churches and personal experiences of committee members. Much of this information and correspondence was gathered into a world wide web location known only to the members, so it could readily be accessed by them and commented on. Because of distance and full schedules meeting face to face was difficult, but technology, particularly email served us well. Your committee managed to meet together twice.

As we began to discuss the task given us we came to understand how time consuming it would be. We decided we could not deal with the item of reviewing statistics, especially with an aim to looking for whether cohabitation relationships held together any better than traditional marriages. We had no expertise in statistics on the committee, and in fact some suspicion of their interpretability. Also we felt that portion of the mandate had little to do with dealing with the situations. It was decided we could not address that portion of the mandate. The Committee also simply accepted that cohabitation was more popular than ever, without exploring too deeply why. Dropping some of those aspects of our mandate allowed us to focus our efforts a little more on the (still broad) area of how the issue of cohabitation is encountered, how troth relationships are dealt with in scripture and through western history, finishing with a few guidelines for how cohabitation situations can be approached by councils.

We decided on a two-phase report, one a Summary Report and the other a Full Report with more detail and explanation. This gave us the opportunity to put something out to the churches while we took time to sort through and organize our information into a second Report that had more detail and background in it.

We recognized the best place to start exploring these matters was with definitions of the categories we would be studying.

2. Defining Marriage and Cohabitation

a) Marriage

As Christians, we believe marriage was instituted by God when Eve was created out of Adam.⁷ In the pattern established there the one became two and then the two became one, a pattern that repeats itself in mothers giving birth to children, who then find another with whom to become one. The Christian Reformed Church's official definition of marriage reflects God being the origin of marriage as well when it says: "*Marriage is an institution created by God. It is a covenant relationship established by mutual vows between a man and a woman united by God.*" ⁸

6 For a copy of the complete overture, please see Appendix A "The Overture" attached to the Summary Report.

7 Genesis 2:18-25

8 Denominational statement found on the CRCNA.org web site

The Bible additionally describes the following as elements which constitute marriages that are pleasing in the sight of God. Marriages are to be relationships which:

- **are intended to last until one of the partners dies.**

Romans 7:2-3 (*All Bible quotations are from the New International Version*) For example, by law a married woman is bound to her husband as long as he is alive, but if her husband dies, she is released from the law of marriage.³ So then, if she marries another man while her husband is still alive, she is called an adulteress. But if her husband dies, she is released from that law and is not an adulteress, even though she marries another man.

Malachi 2:13-16 Another thing you do: You flood the Lord's altar with tears. You weep and wail because he no longer pays attention to your offerings or accepts them with pleasure from your hands.¹⁴ You ask, "Why?" It is because the LORD is acting as the witness between you and the wife of your youth, because you have broken faith with her, though she is your partner, the wife of your marriage covenant.¹⁵ Has not *the LORD* made them one? In flesh and spirit they are his. And why one? Because he was seeking godly offspring. So guard yourself in your spirit, and do not break faith with the wife of your youth.¹⁶ "I hate divorce," says the LORD God of Israel, "and I hate a man's covering himself with violence as well as with his garment," says the LORD Almighty. So guard yourself in your spirit, and do not break faith.

Matthew 19:8-9 Jesus replied, "Moses permitted you to divorce your wives because your hearts were hard. But it was not this way from the beginning.⁹ I tell you that anyone who divorces his wife, except for marital unfaithfulness, and marries another woman commits adultery."

- **have the man and the woman sexually faithful to each other.**

Exodus 20:14 "You shall not commit adultery.

Matthew 5:31-32 "It has been said, 'Anyone who divorces his wife must give her a certificate of divorce.'³² But I tell you that anyone who divorces his wife, except for marital unfaithfulness, causes her to become an adulteress, and anyone who marries the divorced woman commits adultery.

Hebrews 13:4 Marriage should be honored by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral.

- **are intended to produce offspring who know God.**

Malachi 2:15 Has not *the LORD* made them one? In flesh and spirit they are his. And why one? Because he was seeking godly offspring. So guard yourself in your spirit, and do not break faith with the wife of your youth.

1 Corinthians 7:14 For the unbelieving husband has been sanctified through his wife, and the unbelieving wife has been sanctified through her believing husband. Otherwise your children would be unclean, but as it is, they are holy.

The New Testament further develops the pattern for marriage by emphasizing that they are to be relationships:

- **that are characterized by mutual love and respect.**

Ephesians 5:23-24 For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Savior.²⁴ Now as the church submits to Christ, so also wives should submit to their husbands in everything.

- **between one man and one woman to the exclusion of all others.**

1 Timothy 3:2, 12 Now the overseer must be above reproach, the husband of but one wife, temperate, self-controlled, respectable, hospitable, able to teach ...¹² A deacon must be the husband of but one wife and must manage his children and his household well.

b) Cohabitation

The definition of cohabitation that came to us in the overture is: *“any unmarried, heterosexual couple who consistently share a common residence and engage in sexual intercourse.”*⁹ What that essentially describes is a couple who live together in what appears to be a full marriage relationship without either a Christian covenant ceremony or a civil certification sealing it.

3. The Purpose of Marriage

The God-ordained purpose of marriage is beautifully described for us in the forms in the back of the Psalter Hymnal. The 1912 version of the marriage form states that God established marriage to:

- 1 extend the human race;**
- 2 advance the kingdom of God, and**
- 3 enrich the lives of those entering this state.**

The 1979 version adds that God intended marriage to provide a:

- 1 context within which husband and wife can help and comfort each other and find companionship;**
- 2 setting within which we may give loving and tender expression to the desires God gave us;**
- 3 secure environment within which children may be born and taught to know and serve the Lord;**
- 4 structure that enriches society and contributes to its orderly function.**

The 1912 form also tells us that *“Marriage, then, is a divine ordinance intended to be a source of happiness to us, an institution of the highest significance to the human race and a symbol of the union of Christ and His church.”*¹⁰ These are wonderful blessings indeed and God obviously delights in happy marriages.

9 This is the definition used in the overture from Smithers. See Appendix A to the Summary Report.

10 Form for the Solemnization of Marriage (1912), page 1007 of the (grey) Psalter Hymnal.

Cohabiting couples can, of course, meet these Biblical requirements and many of them certainly do. In fact, some common law relationships can put some marriages to shame, judging by the present-day high divorce rates. Nevertheless, in actual practice, many (probably most) common law relationships lack the lifelong commitment that God requires of marriage partners and these relationships tend to be much more casual - a sort of “if it works, fine. If it doesn't, we can always find other partners!” arrangement.

4. Examples of how the problem is experienced, with indications of why cohabiting is popular.

When the study committee was formed, a request was sent to all the churches in Classis, asking for examples of how the problem of cohabitation has been encountered. Only a few written replies were received. A couple of anecdotal accounts were shared verbally with committee members as well. Also, several personal encounters with such situations were shared between members.

From what was shared it seems there are two primary categories of cohabitation. It is practiced by the young, and by the more mature. The reasons for cohabiting seem to vary according to age. The young seem to have more of distrust of the institutional components of marriage. They also simply don't feel a need to have such institutional stamps on their relationship. They express a need to “be sure before they commit for life,” and once they reach some degree of certainty that the relationship is right, will sometimes formalize it with a ceremony. Older cohabiters point to 'financial' reasons for not marrying formally. For instance, they will say that one or the other would have to give up some source of income if they married, so they don't. Others point to 'family' reasons for not marrying, such as the children not liking the idea of a new spouse.

Regardless of the reasons, in almost all cases, two people end up living together in a relationship that looks a lot like marriage, but without the sanction of either the law or the sanction and blessing of the church.

Beyond these given categories, other complications enter the picture, such as when one person in the relationship is not a professing believer while the other is, and the believer wants formal marriage but the other does not. Traditionally we have referred to these as situations in which the two are “unequally yoked together”¹¹ and such situations complicate the approach a church might take. Other relational dysfunctions and sinful behaviours may certainly be present in any cohabitation situation as well. For instance there could be a power imbalance between the partners which would affect how the situation needs to be dealt with. All of these make writing a concise guide to handling cohabitation situations more than a significant challenge.

5. The Key Question: What Begins a Marriage?

Your committee found itself repeatedly bogged down in its discussions. When we were able to begin identifying what was making things difficult, it was realized that the question the committee had been wrestling with was this: What act or rite (if any) is it that

11 2 Corinthians 6:14

establishes the union of a man and a woman as "one" in the eyes of the Lord? Or put another way, which of the following is truly necessary to establish a relationship as a marriage before God?

Is it:

- 1 The sharing of living space and finances?**
- 2 An understanding between two people for a time - a trial marriage, so to speak?**
- 3 Sexual intercourse?**
- 4 A private agreement between a man and a woman to move in together?**
- 5 A commitment to a growing and evolving relationship with one another?**
- 6 Raising children together?**
- 7 A solemn commitment between two people to create a permanent relationship (oral? written? witnessed?)**
- 8 A vow made together before God?**
- 9 A wedding ceremony or feast before family and friends?**
- 10 A signed legal contract between a man and a woman?**
- 11 The public exchange of vows between a man and a woman, either before an ecclesiastical or civil authority such as the Christian Reformed Church's definition of marriage requires?**
- 12 A particular combination of the previous elements?**
- 13 Something else?**

The answer to this question is crucial since those who cohabit seem to see no necessity for any sort of public commitment or religious involvement to solemnize their relationship. They appear to be satisfied with one or several of the other categories as being equivalent to marriage. Even Canadian civil law recognizes that common law relationships exist and makes provision for the protection of the rights of the partners should they decide to part ways after they have lived together for X number of years.¹² The church has, for some time now, required some form of item (k) as a seal of a marriage. No scriptural evidence directly calls for item (k) though, and scripture-based arguments can be made in support of several of the others as being sufficient to constitute marriage before God. Some of the characteristics listed above are clearly not in keeping with Biblical imperatives for marriage. Still others are in a "grey zone" in that they could be compatible in certain situations but not in others depending upon the motivation of those who want to live together. While the Bible gives good direction as to what makes a marriage pleasing in God's sight, it does not directly address the issue of what constitutes the start or institution of a marriage.

12 The Legal Services Society of Vancouver booklet entitled "**Living Common Law**" states: *To be legally married, you must have a legal marriage ceremony (religious or civil). After that you stay married until one partner dies or until the marriage is legally ended by a divorce. So if someone tells you: "If you stay together X number of years, you're legally married," it isn't true. If you didn't have a legal marriage ceremony, you're not in a legal marriage.*

See Appendix 4, attached at the end of this document for a more detailed summary.

From identifying this matter as the crucial dilemma, the committee turned to history, to see how the institution of marriage had been dealt with, not only in scripture, but in the time since the closing of the canon up to the present day.

6. An historical review of the marriage relationship

God-fearing people throughout history, along with Christians universally, agree that God instituted a special relationship between Adam and Eve when Adam was found to be incomplete somehow within the good creation. Eve was created from him to complete him. Their relationship is the basis of what we call marriage today: A man and a woman becoming one before God and establishing a household together.

Since the beginning of time the institutional shape of the marriage relationship has varied a lot. In Old Testament times, even God's people practiced polygamy for centuries without God seeming to frown on it.

The following historical review elaborates on the wide range of practices and it attempts to categorize them. A full research paper by Bert den Boggende, written for First Christian Reformed Church in Hamilton Ontario when they investigated this issue, was our main source. It is used with permission. It was attached to the Summary Report as Appendix 3. The three main models Mr. den Boggende identifies are: Social covenant (which den Boggende calls the Lay Model), Ecclesiastical (church regulated), and State/legal. We will begin by giving a brief elaboration of each model.

a) The Social Covenant Model of Marriage

The research paper demonstrates that marriage has existed for most of human history as a social agreement between two families or clans wherein a woman moves from her family of origin into the family of her husband. In those times marriage seems to have been strictly a social and economic institution. The men made agreements or covenants that literally resulted in a man acquiring a wife. Such an agreement, when fulfilled, seems to have been recognized as a constituted marriage. This was the case for God's people in Old Testament times as it was among the peoples around them. Religion did not seem to have a large role in these customs aside from proscribing behaviors related to marriage and prohibitions around it, such as warnings about rape, adultery and divorce, but giving no clear descriptions of how the social contract of marriage was formalized.

b) Ecclesiastical and State/Legal Models

During the early centuries of the church, religious leaders gradually began to play a greater role in endorsing marriages involving Christians. Governments also took greater roles in managing marriage as a civil institution. By the middle ages the institutional church in Europe had gained much political power - including the governing of marriage ceremonies. As a result the church began to play an important legalizing function in matters of inheritance, something that was increasingly important to the developing economies within Europe. There was an ebb and flow and a blending and crossover of powers between Church and State during this age, so that at times the Church was essentially the State. During this time, marriage began making a slow shift from the realm of social contract to that of a State-controlled or Church-controlled institution. Also during this time churchmen began to argue that marriage was a sacrament instituted by God.

The Protestant Reformers rejected the notion of marriage as a sacrament. For Reformed folks marriage remained essentially a civil or social contract that viewed the church's participation or blessing as desirable but not essential to making a marriage. This can be labeled a “mixed model,” and a completely secular marriage – civil or state – remained a viable option for Protestants. For many, primarily poorer people without significant property – which could create legal complications for inheritance – the social covenant model remained the norm. A form of it remains today in common-law marriage and cohabitation. Various mixtures of the three models exist in 21st century societies.

Having briefly elaborated on the three models proposed by Bert den Boggende, we will now look at the development of these models in more historical detail.

c) Marriage as Social Arrangement in the Ancient Near East

We do not have much of a written record of how marriage was viewed in the cultures around God’s people in OT times. Some of the earliest recorded laws from the time of the dynasty of Ur-Nammu (2112-2095 BC) deal, much like the Old Testament does, with violations of marriage such as rape and adultery, but not with what marriage is formally.¹³ A little later (between 2000 and 1750 BC), we find in the laws of Eshunna, which was east of modern Baghdad, laws about bride money and a formal marriage contract:

If a man takes a(nother) man's daughter without asking the permission of her father and her mother and concludes no *formal marriage contract* with her father and mother, even though she may live in his house for a year, she is not a housewife. *On the other hand*, if he concludes a formal contract with her father and her mother and cohabits with her, she is a housewife. ¹⁴

These and other similar records from Ancient Near Eastern countries indicate marriage was largely the purchase of a wife as property functioning as an offspring-producer.¹⁵

Though at times the state seemed to play a role in setting laws concerning marriage customs and transactions so that family units were orderly and stable organizations, the state played no role in making a marriage official.

No mention is to be found of a religious component to these social arrangements in the cultures existing alongside God’s Old Testament peoples. Bert den Boggende says that marriages in the cultures surrounding the Old Testament peoples were in fact very similar to each other, and even similar to some modern forms of common law marriage today.¹⁶

13 James B. Pritchard, ed., *Ancient Near Eastern Texts* (Princeton: Princeton University Press, 1969): 524. See also 526. Dates are taken from ANET.

14 Ibid.: 162; italics by the editors.

15 See e.g. John A. Wilson, *The Culture of Ancient Egypt* (Chicago: University of Chicago Press, 1951): 94. But see I.E.S. Edwards, ed., *The Cambridge Ancient History* (1973) Vol. II pt. 1: 204-208.

16 E. Schillebeeckx, *Marriage, Human Reality and Saving Mystery* (New York: Sheed and Ward, 1965): 83.

d) Jewish Marriage Customs

We know little about what transpired in an ancient Jewish wedding. It appears that in Old Testament times, even among God's chosen people, marriage was a social rather than a legal or religious arrangement, although it occasionally had some contractual aspects. We know that sometimes a banquet was part of either betrothal or marriage, that it involved some kind of blessings from family and friends - there is no scriptural evidence a priest was involved - and sometimes, as in the case of Samson,¹⁷ marriage could be done without parental blessing. The one time Scripture mentions priests involved with marriage, it was to break up mixed marriages.¹⁸ The people, in community, worked out the marriage relationship and, it seems fair to say, with some social ceremonies of commitment, and two people moving in together, a marriage was made.

New Testament statements allow us to see that by that time, the promise to marry – betrothal, was considered to have the same weight or import as we today would consider marriage. Joseph, we are told, considers 'divorcing' his betrothed Mary, for instance.¹⁹

Bert den Boggende writes:

“According to Louis M. Epstein in *The Jewish Marriage Contract*, the betrothal represented the full legal consummation of the marriage.”²⁰ Once the betrothal arrangement was made and gifts were exchanged, the covenant of marriage was sealed. Sleeping together²¹ appears to also to be enough to constitute a marriage. According to Epstein, in antiquity cohabitation without a ceremony was socially common and legally sanctioned.²²

Clearly marriage ceremonies were a part of Jewish culture in Jesus' time, although there again we have few details. There is no evidence of a priest playing a key role, though many have assumed that since other blessings were given at a ceremony, religious officials would be asked to give theirs as well.

e) Greek and Roman Marriage

The social model of marriage appears to have dominated western cultures until about 400 BC when, in Greece and Rome, we begin to find evidence of marriage as an institution instated by 'the gods' with priests called upon to bless them. In Roman society there was a notable shift away from the contractual agreement between families to marriage by mutual consent, a process that involved a betrothal and then a marriage. These ceremonies had some religious rituals, such as eating sacred foods and sacrificing animals, but were not yet fully religious ceremonies.

17 Judges 14 to 16

18 Ezra 10:10

19 Matthew 1:18, 19

20 Louis M. Epstein, *The Jewish Marriage Contract* (New York: Arno Press, 1973): 12.

21 Cf. the Germanic notion of "sleeping under one blanket." See Edward Westermarck, *The History of Human Marriage*, Vol. 2 (New York: The Allerton Book Co., 1922): 437. See also endnote 68.

22 Epstein, *Jewish Marriage Contract*: 18.

f) The Early Church and Marriage

The writings of early church leaders, although coloured at times by their high esteem of celibacy, were generally favorable to marriage. Origen (185-254) said:

"It is God who united the two into one, so that from the time the woman is joined to her husband, they are two no longer. And since God united them, therefore those who have been united by God have received grace." ²³

Here we see reflected the view of early Church fathers that God presided over the union, ratifying the promises to bride and groom in some way. That the church and the bishops represented God's involvement in the making of a marriage is also clear when we read Ignatius, who wrote in a letter to Polycarp (c. 117) that:

"it becomes men and women..., when they marry, to unite themselves with the consent of the bishop, that the marriage may be after the Lord and not after concupiscence." ²⁴

Or in the words of Tertullian (160/170-215/220):

"Where shall we find power to declare the happiness of that marriage, which the Church arranges, which the oblation confirms, the benediction seals, which the angels proclaim, which the Father ratifies?" ²⁵

It seems that as the early church aged, bishops began to use marriages as opportunities to exert church influence over what had been a social covenant with religious ceremonies. According to C.J. Cadoux, there is evidence of the "Church's growing consciousness of independence and power over against the State." ²⁶ Emperor Constantine gave the bishops almost judicial authority ²⁷ and after the fall of the Roman Empire (ca. 476 A.D.), the bishops emerged as leaders into the political vacuum and the institutional church assumed an increasingly powerful and dominant role over western society.

As the church gained power its attitude towards marriage turned negative, with abstinence from sexual intercourse elevated as a higher norm than marriage. So the church worked harder to regulate marriage. Although marriages still followed a Roman pattern, retaining Roman civil transactions, pagan rites were replaced with Christian ones or blended with them. The Church's involvement in marriage and the blessing of it never quite became obligatory though, and many still stayed only with civil transactions. Some in the church opposed the civil portion, but it is clear civil marriages were never seen as invalid.

23 Origen, *Commentary on Matthew*, t. XIV, c. 16, in Joyce, *Christian Marriage*: 161; see also 159-160.

24 J.B. Lightfoot, *The Apostolic Fathers* (Grand Rapids: Baker Book House, 1974): 87. (reprint from 1891).

25 Tertullian, *Ad Uxorem*, lib. ii, c. 9, in Joyce, *Christian Marriage*: 163.

26 C.J. Cadoux, *The Early Church and the World* (Edinburgh: T. & T. Clark, 1925): 444.

27 Joyce, *Christian Marriage*: 216.

Although the social covenant model of marriage remained common, the church-regulated model was becoming established. Over time marriage came to be viewed as a sacrament and the church-regulated model displaced the social model in Europe.

g) The Middle Ages

After the fall of the Roman Empire, the church split geographically into Eastern (Orthodox) and Western (Roman) factions. In the East, in 866, the key question became whether a marriage was really a marriage without the sacred blessing. Pope Nicholas I gave the Eastern church a clear position when he declared a sacred blessing unnecessary, effectively saying the social model was sufficient. In the West, there were those who began to argue that (sexual) consummation was the essential component of marriage.²⁸ In the face of these unresolved disputes among church leaders, many lay people continued to practice marriage as a social contract with religious components. “According to Jonas of Orleans (d. 844), the great majority of marriages took place without religious rites of any kind.”²⁹

Within the Italian states most influenced by the church in Rome, there was a gradual transition away from viewing marriage as the transfer of a possession – woman/daughter to woman/wife—to a pledge of mutual consent between a man and a woman. In Germanic Europe such a transition came centuries later. Those areas retained the notion of women as property and the handing over of a daughter by her father as a central requirement of marriage. Remnants of this custom can still be seen in many North American weddings. Eventually mutual consent wove itself into the Germanic customs as well, with a lot of adaptations and a variety of arrangements within different communities: basic social contracts, witnessed social covenants, rings or cups given in pledge, private or public ceremonies. These witnessed social covenants evolved into the notarized marriage, witnessed by a public official.

Legally notarized marriages addressed the concerns of the state and of its wealthy citizens, regulating the legalities of inheritance and the transfer of possessions associated with marriage. For poor folks, such legal rituals were often deemed too expensive and thus unnecessary. The less wealthy continued to practice less formal marriages and kept the social covenant model alive.

By 900, there is evidence that the church had enough civil power in Europe that a marriage without the church’s blessing could be declared null and void. This power protected women from undesired spouses – and increased the church’s influence within western culture. By the eleventh and twelfth centuries, marriage as social covenant had faded away, except for isolated communities and among the poorest people. For most people the church-regulated or ecclesiastical model, which emphasized the divine ordering of the world, took over. Records show there were plenty of social unions still occurring, but the church was working to firm up its hold.³⁰

28 Hincmar, *De Nuptiis Stephani et Filiae Regimundi Comitum*, in Joyce, *Christian Marriage*: 54-55.

29 Jonas of Orleans, *De Institutione Laicale*, in Joyce, *Christian Marriage*: 104.

30 The Lateran Council of 1215 decreed that banns should be published, that priests who blessed a clandestine union were to be suspended for three years, and that the couple of such a union should be punished. A clandestine marriage was a private marriage before a few selected witnesses.

By the time of Thomas Aquinas (1224-1274) marriage was viewed as an institution conferring grace (a sacrament) and the church's solemnization of the marriage was required.³¹ The Council of Trent in 1563 articulated the details of the doctrine of marriage as sacrament. Its statement summarizes what had been the common clerical view during the two centuries prior to the Protestant Reformation.

h) The Reformers and Marriage

Martin Luther attacked the idea of marriage as sacrament. He saw marriage as a natural social institution better left to the jurisdiction of civil leaders. He wrote: "there is no Scriptural warrant whatsoever for regarding marriage as a sacrament..." nor did he think that "the rite of matrimony contain(ed) any hint that that ceremony is of divine institution."³² In his own wedding in 1523 he emphasized the social covenant aspect.

John Calvin largely agreed with Luther, asserting that marriage is non-sacramental, a social institution requiring only parental consent.³³ Calvin, however, also considered marriage as a holy estate. Writing on the seventh commandment, Calvin described marriage as "contracted in the Lord" (I. 8. 44) and when "entered under his (God's) authority ... also sanctified with his blessing" (I. 8. 41).

Reformation history shows a struggle to discover a scriptural view of marriage in the face of varied traditions and the social/financial changes taking place in Europe. What emerges is a mixing of marriage traditions, demonstrated well in Calvin's own marriage in 1540. The civil magistrates played a central administrative function in the marriage, but he invited colleagues to be there to bless the marriage, and the emphasis was on the religious covenant of the wedding.

A mixed model became established in 1580 in the Netherlands when civil marriage was endorsed. People had to get permission to be married from the city, upon which bans would be published and after three weeks of public announcement, they could get married. A city clerk could, by this time, solemnize marriages as well as a minister.

Through the 16th-17th century, Dutch evidence suggests that both the mixed model and the social covenant model persisted in Protestant areas. Roman Catholic countries retained the ecclesiastical model, a form of which was adopted by the Anglican church in Britain as well. During this time the church strengthened its hold over the moral conduct of the population and enlisted the help of the state for that. Still, it was hard for the church to get lower class members to drop the practice of consensual unions made without the blessing of the church.

i) Marriage more recently in Canada

The British Parliament passed an Act in 1753 that made only church weddings valid,³⁴ and this regulation – and the role of the minister as the agent of the state in legalizing

31 Ibid.: 270, 357-358; Bailey, *Sexual Relation*: ch. IV; see the Decretum Gratiani, the medieval canon law.

32 Luther, *The Babylonian Captivity*, 1520, in John Dillenberger, *Martin Luther* (Garden City: Anchor Books, 1961): 326. This does not mean that marriages as such were not divinely instituted.

33 Calvin, *Institutes*, esp. IV. 19. 34. According to the Council of Trent, parental consent was a moral duty not a necessary condition for the validity. Luther and Calvin differ on this point.

34 Stone, *The Family*: 32. Cf. Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (Harmondsworth: Penguin, 1979): 29; Joyce, *Christian Marriage*: 52; James, *Marriage Customs*: 120.

marriage – came to Canada as the natural inheritance of a British colony. “Although civil marriage was made optional by a law of 1835 (nearly half a century after the French Revolution which had ushered in the period of the civil marriage proper), the repercussions of the 1753 act can still be observed in Canada: many unchurched couples still expect to get married in church, and see the minister’s function as that of a civil servant.”³⁵

In more recent history a number of changes in worldview have played a role in shaping and reshaping how 21st century Christians perceive marriage. Major changes in our views toward women’s place in society (further distancing us from the Germanic, “transfer of possession” model), increasing individualism (which in spite of some harmful strands of effect also increased personal responsibility and brought new levels of accountability and equality in marriage), along with a fresh, alert and thoughtful reexamination of the portions of Scripture which had been interpreted in ways that justified the ecclesiastical model are some of those changes. Dr. James Olthuis is an articulate example of the results of those changes in thinking. He is a modern reformed believer who finds ground on which he is both a faithful Christian and speaking within his culture when he writes, “male and female *together* constitute ‘man’ and reflect the image of God.”³⁶ According to Olthuis, this relationship is characterized by troth or fidelity, “the staying power which gives special joy and color to intimacy in family, friendship, and marriage...[and] is the moral expression of love.”³⁷ Clearly, Olthuis has moved away from viewing marriage as a strictly legal or ecclesiastical institution, and is pointing to elements such as troth and fidelity as being crucial to making a marriage.

Summary Conclusion

This review of marriage through scriptural history through to Modern western world history shows that the ecclesiastical and state models are comparatively recent developments. For the vast majority of time some version of social contract governed the making of a marriage. This is a crucial fact to keep in mind when considering how the church today can best guide and interact with adherents who practice cohabitation or common-law living. This is a humbling realization to come to.

7. The Key Question Revisited

We now realize that when we deal with situations of people cohabiting, we are basically dealing with those who are functioning within something close to the social covenant model of marriage. We have an expectation of a church or civil ceremony. They chose neither. The main question that remains then is: is this model an offense to God? Is it outside of what God desires? To answer that question, each council must address what the essential components of marriage are. A list of some options has been given earlier in this report.

Something else that has become clear is that making a commitment or a covenant of some sort has in fact been a crucial element of marriage throughout time. Even Adam's exclamation “This is now bone of my bone, flesh of my flesh” in Genesis 2:23 can be read

35 Page 11 of Bert den Boggende's report

36 See Olthuis, *I Pledge You My Troth*: 15.

37 *Ibid.*: 22.

as a statement of commitment. Therefore some form of stated commitment could be said to be a must in marriage and marriage-like relationships along with other essential elements such as sexual intimacy (intercourse).

A case could be made, based on most of western history, that the social covenant model is most problematic to churches that perceive marriage as a sacrament. But in the Reformed strand of the church this has never been the case. The ecclesiological model certainly seems to have emerged to solidify the church's social and political dominance and to enable her to hold people subservient. That is not typically the Reformed way of approaching things. So we ask, could we come to a place where we acknowledge that it seems fair to say that God is fine with variations on what begins a marriage, and the social covenant model may not be offensive to God? And if we come to such a place, are we able to adjust our expectations of the forms marriage takes? Can we help cohabiting couples find ways of making a form of commitment to each other before God?

Further, can we help shape some form of mutual accountability between the faith-professing couple and its faith community as a way of adapting the social/individual covenant models to suit what we find to be essential elements of marriage? How do we achieve that? Your committee is not able to fully answer such questions for you. We can only suggest that we, as a church in a changing time, come to understand marriage or marriage-like relationships as practiced in our culture as being on a continuum. At one end of the continuum are the various complex, sometimes acrimonious, hard-to-categorize couplings that we so often encounter in a fallen world – and on the other, the ideal relationships which reflect the perfect, loving, covenant relationship between Christ and his Bride, the church. We feel this fresh discussion must be had in the church. And out of that discussion perhaps a process can be created that helps couples move from the actual relationships they find themselves in toward the ideal. Such a view eliminates the need to decide if a particular relationship is within the acceptable range or not. Taking this approach would allow us to see all our truth relationships and needing ongoing movement toward the ideal, until the fulfilling of all of God's Kingdom promises.

1 Guidelines on how to deal with problem situations

When the church encounters people whose relationships deviate from what the church has considered normal, its leaders are often perplexed about how to show grace and how or whether to exercise discipline. We want to promote what we believe God is all about and what we believe God requires. We feel strongly about some things. At the same time we want to obey Biblical directives to be compassionate. We want to bring people toward the ideal, and we don't want to be difficult or harsh if it can be avoided. Complicating things further is the fact that each encountered cohabitation situation will have unique features and circumstances to consider. Knowing these things, we always begin our task with humility before God. The challenge of the current situation calls us to reflect anew about what we expect marriage to look like.

There is a sense in the air in these days that besides taking a fresh look at what really constitutes a marriage in God's eyes, our approach to accountability between believers needs refining. In the past the rules and expectations of the church seemed to be as natural as the air we breathed. But more and more, our churches are blessed with new believers who have not breathed that same cultural air and so don't know our rules so automatically.

When churches experience people whose relationships deviate from basic consensus they are perplexed about how to show grace and how or whether to exercise discipline. In the synodical reports on divorce and re-marriage, documents which offer the general denominational stance on other complex challenges to the institution of marriage, the positional statement was notably wary of setting hard and fast rules of discipline. Speaking of divorce and remarriage, the report warns church councils to exercise "formal discipline only when there is disdain for biblical teaching and when repentance is beyond hope. The church must be a place of acceptance and support." ³⁸ Surely this principle is equally true as councils meet cases of cohabitation.

We do well to take an approach that each situation creates an opportunity for learning by both the church and the members. True accountability would be an open discussion of the matter, centered on the Spirit's leading and God's word, that taught both parties something. In days that are long gone for most of us, the church used to be able to pronounce how things were to be, and had the power to enforce those rules with what was called church discipline. This led to the church encountering problems that were outside of its definitions less frequently. However, social and cultural changes have reduced the church's social power, and left it less able to exercise discipline in the ways which limited such problems in the past. So, new ways of discipling, teaching, training, coaching and shaping each others walks with God are eagerly being sought.

There is a danger of Councils become mired in disagreements about how to deal with cohabitation situations. Some will long for a return to a past with clearly defined and enforced expectations and boundaries; others will argue that the church must find a new way of graciously discipling people into living closer to the norms we believe God has made clear; while still others wonder if it is time to redefine the norms or ignore them altogether. How do we find our way through the messiness? Your committee hopes it is giving, in this report, information and some tools that will help.

Your committee feels the ideals laid out by the church as purposes for marriage are valid and good. We find it helpful to start with the understanding that all "troth" or marriage-like relationships are somewhere on a continuum and all need to be helped to move towards God's given ideal. However, there may be situations in which a congregation has to accept that the relationship they are dealing with is far from the ideal and that they may not move much. There may be others where, with conversation, prayer and a study of God's word, couples, without coercion except by the Holy Spirit speaking through the word and the clear love of his people, suddenly realize they need to make a change. Such experiences are common in church plants across the continent and are refreshing to hear about.

With that understanding, some questions can be brought to the encountered situations that could shape the elder's pastoral approach to the couple. For instance, the question could be asked: Is the chosen form of relationship primarily the response to past wounds, or is it a defiance of custom? If rejection of traditional marriage is revealed to be due to past wounds, such as the pain of loss to death or divorce, or past abuse, a different approach would be taken than if it was revealed to be an outright rejection of the church's authority, or of God's authority. Defiance of God's authority is a serious matter. Defying custom is inconvenient, but allows for some leeway. We must sort out what God actually

38 See http://www.crcna.org/whoweare/beliefs/position_marriage.asp?WhoWeAreMenu

requires, and examine if that is consistent with what we have become accustomed to. In each individual case, the core issue would need to be identified and worked with even as the council needs to ask similar questions of itself, such as “Why do we want this person to comply with our expectation?” It may be discovered that the real issues are something quite unrelated to not choosing marriage as the church has understood it. Imposing a requirement for compliance in such situations could only increase the damage and would not move things along well.

There is a danger of the church setting such clear filters in place that they never have the “burden” of dealing with messy situations. Our Lord, ministering on this earth, seemed drawn particularly to the messy situations, such as with the Samaritan woman at the well. The church is wise to check if it is merely scaring away the messy people, in a sense chasing away the one lost sheep in the belief they are protecting themselves and the ninety-nine.

Other factors may complicate pastoral care of a cohabiting couple. The multitude of possible combinations of these factors prohibits any kind of full review. For instance, one of the individuals may not be a professed believer, and so little understanding or compliance could be expected from them. Yet their expectations can put extra pressure on the person who is a believer and trying to live a life pleasing to God. It is also entirely possible to find oneself dealing with a couple that has no idea of God's guidelines, and they may in fact be stunned to discover them in their own reading of the Bible and become convinced to make changes to bring them into compliance. These are exciting moments in ministry among God's people.

9. Concluding Comments to the Full Report

It seems best for council members who are working with cohabiting couples to keep before themselves the idea of the overall goals of Christian marriage, namely to create a context for serving God and raising the next generation of God-fearing women and men; in marriage, a man and a woman commit themselves to a serve God in a shared life of faithfulness, mutual affection and support. With sensitivity to other matters which complicate the relationships involved, they need to humbly, carefully and prayerfully take an approach that has as its goal the moving of the couple step by step towards actions and understandings that would facilitate the achieving of that goal in their relationship. If, by God's guiding Spirit and Grace, even small steps toward moving relationships along are made, God's Kingdom purpose is being served, and that is worthy of celebration.

It is our sincere hope that what we have pulled together in this fuller, more in depth report will well serve the Christian Reformed churches in Classis British Columbia North West. We close off with a clear sense that we have still, even in these 16 pages, just scratched the surface of the issues tied in with the question of how to relate to cohabiting couples affiliated with our churches. We have been educated and enlightened in our service to our Lord's church in preparing it and hope and pray that it facilitates good discussion and great work among us all, work which serves to bring Glory to God's name in our communities.

Humbly submitted:

Your Committee

**Rev. Pete VanderBeek, Virginia Lettinga, Harry Kruisselbrink,
Rev. Peter Sinia, Janet MacPhee.**

Appendix 1 The Overture

Smithers Christian Reformed Church of Smithers overtures Classis British Columbia Northwest at its session, September 21-22, 2004, to:

1. appoint a committee to:
 - (a) study the issue of cohabitation* or common law living from a Biblical perspective;
 - (b) evaluate the reasons why cohabitation/common law living is so popular in our society and review statistics to determine if these relationships are usually lasting ones.
 - (c) recommend guidelines on how church councils should deal with members and regular attenders who cohabit or live in common law relationships.
2. Submit the report to the March, 2005 session of classis.
3. Submit the study committee report to the Synod of 2005 for the purpose of:
 - a. making the Christian Reformed Church, in general, more aware of the issue.
 - b. establishing guidelines on the practice of cohabitation/common law living that apply to the entire denomination.

Grounds:

1. Cohabitation and common law living are becoming more prevalent in our modern society, also among church members.
2. At present the Christian Reformed Church does not have an official position on cohabitation/common law living such as it has on homosexuality and other issues relevant to today's society
3. Local church councils struggle with the issue. Some office bearers condemn the practice as being un-Biblical because sex outside of marriage is wrong. (cf. Genesis 2:24, Matt. 19:4-9). Others believe the act of consummation (becoming "one flesh") constitutes a life-long commitment in the eyes of the Lord so that couples living common law are, in effect, married - albeit without the benefit of a public ceremony.
4. Church Councils would benefit from a thorough review of Biblical texts dealing with marriage and cohabitation/common law living and some guidelines as to how to approach church members living in common law relationships.

** We use the term "cohabitation" as meaning any unmarried, heterosexual couple who consistently share a common residence and engage in sexual intercourse.*

Appendix 2

Report of Committee on Common-Law Relationships for Classis Alberta North

This committee began meeting in January of 2004. Several meetings were held, E-mail messages sent back and forth, and after much deliberation and discussion, the following is our report. This report is meant as information and advice for Classis, not as a requirement for churches in Alberta North.

Mandate of the Committee:

As a result of a request from Bethel CRC in Edmonton to Classis, our committee was asked to examine the various issues surrounding common-law relationships and provide advice on the type and method of pastoral care that congregations of Classis can provide regarding this issue.

Note that in this report, the term "common-law" is not used in the legal sense, but refers to all forms of co-habitation except marriage.

A. STUDY OF MARRIAGE

1) History of Marriage - Legal

Men and women have been getting married since the beginning of time, but government laws concerning marriage are a relatively new occurrence. It was not until 1753 that the English government passed a law which stated that marriage banns were to be published and the couple had to obtain an official marriage license. This was to prevent clandestine marriages, which had created legal abuses, bigamy and questionable legitimacy of heirs.

The common-law does not "establish" a marriage so much as set out markers to determine who is considered married. This only comes into play if a marriage is challenged in court. Everyone has the God given right to marry but the common-law determines the recognition of marriage, not the lawfulness of marriage.

Common-law marriages (marriages without the benefit of clergy) were common at a time when there was less opportunity to be married by the clergy. Historically there was a time when clergy was not always available to perform a marriage ceremony. A couple was considered to be married under the common-law until such time that clergy was available to perform a wedding ceremony. In today's circumstances, this argument of 'no available clergy' is no longer valid.

All marriages, statutory and common-law are based on a contract. In the case of a statutory marriage, the contract is between three parties - the husband, the wife, and the province. Proof of marriage will be required if you are seeking some right or benefit.

Common-law marriage is a legal provision whereby two people who are eligible to marry, but do not obtain a statutory marriage, are nevertheless considered married after living together openly as a married couple under specified conditions.

Statutory marriage occurs legally when a couple obtains a marriage license and signs a form for the solemnization of a marriage that is also signed by an official of the state.

2) History of Marriage - Biblical

- a. Marriage is a mutual, permanent union between a male and a female characterized by fidelity. "A man leaves his mother and father and cleaves to his wife and they become one flesh" (Genesis 2:24). This cleaving (clinging) is not only physical but also emotional and psychological. Clinging has terms of fidelity within its meaning that involve loyalty, trust, love, devotion and reliability. In marriage, fidelity is not an act, which occurs now and then, but marriage is a state in which fidelity ought to characterize all marital relationships. Without masks or pretenses, husband and wife grow together and strengthen the bond of love between them.
- b. Husband and wife together live under the Word of God for marriage. This means that marriage is not a human invention or convention, and that marital fidelity is not subject to the arbitrary whims of the partners. Marriage is a permanent trust for life. "What therefore God has joined together, let no man put asunder." (Matt. 19:6).
- c. Since marriage is a bond of fidelity in which two people marry (betroth) each other before the Lord, it may not be considered basically a legal (civil) or ecclesiastical institution. It is not, whether conceived sacramentally or legally, a "remedy for sin." Further, even if sanctioned by civil or canon law, it is not a contractual legal agreement giving two persons the right to each other's body. The roles of the state and church, although important, are external to the relationship of fidelity itself. In more recent times by means of a marriage license (and bill of divorce) the state, concerned to safeguard marriage, simply acknowledges the life (or death) of a marriage. If the couple is in Christ, they further seek the blessing and support of the worship community. A minister does not marry a couple: he only acknowledges that in their vowed promise, God marries them. A wedding ceremony is the rite by which a couple, seeking support and sharing joy, publicly pledge their fidelity in the presence of God, friends, family, church, state, and enter marriage.
- d. "You shall not commit adultery" is an Old Testament way of stating the norm for marriage. It emphasizes that only in marriage can physical intercourse be the totally joyful culmination of daily life activities together. The Word is a cryptic warning protecting marriage. Just as positively, the norm for marriage demands more than physical fidelity. Likewise the norm for marriage in its negative form (you shall not commit adultery) demands more than mere physical fidelity.

3) Synopsis

In Canada, pastors are made representatives of the crown so that marriages performed by Pastors are legal marriages. Generally the church accepts marriages if the couple has been married in the legal sense. The couple may not even have been Christian when they were married.

It is assumed by society that couples living common-law have casual relationships since one of the parties could leave at any time without legal repercussions. However, Canadian law has applied most if not all of the marriage laws to common-law relationships. Canadian Law and society also protects both partners when one wants to leave (break) a relationship. In fact, marriages today do not seem to be any more stable compared to common-law relationships unless the partners commit themselves and work towards a more Biblical view of marriage.

When we read the Bible as Reformed Christians, we do understand that the Bible does give the government authority and that we should follow it as long as we can do so and not compromise our Christian faith. If you look at the Belgic Confession, Article 36, you will see that spelled out in one of our confessions as well. "We believe that because of the depravity of the human race our good God has ordained kings, princes and civil officers. He wants the world to be governed by laws and policies so that human lawlessness may be restrained and that everything may be conducted in good order among human beings."

Guido deBres then quotes Romans 13 and some other passages to show that government was ordained by God and is given authority by God. We are to obey government as long as we are in good conscience able to do so. He ends the passage with, "Moreover everyone, regardless of status, condition or rank, must be subject to the government, and pay taxes, and hold its representatives in honour and respect and obey them in all things that are not in conflict with God's Word, praying for them that the Lord may be willing to lead them in all their ways and that we may live a peaceful and quiet life in all piety and decency."

When the government tells us to register our marriages and make them official with legal documents, it is not out of order. We can agree with that in terms of monogamous, heterosexual marriages. That is not in conflict with God's Word.

When we combine that with some of our other research saying that marriage should be a covenant between a husband and wife that is affirmed with vows and promises before God and his people, then our definite preference would be to have a legal marriage that is performed in the church before God and his people.

Marriage is an act that needs to be done publicly. It is not just a decision to live together and say we are married, because marriage consists of multiple relationships. It is more than a relationship of a man to a woman (and vice versa).

Living common-law really only takes that relationship into consideration. It is also a relationship between the couple and God. That should not just be done by the couple saying that, in the eyes of God, they are married. There should be some official confirmation that comes from the church and her representatives, the leadership of the church. That relationship needs to be publicly declared as being between this couple and God.

There is a third relationship between parents and children. Usually the children come after the marriage, but the relationship is going to be there regardless of the timing of children. The marriage is the beginning of a new family. That shows a fourth relationship; there is a relationship of three families: the family of origin of each spouse and the new family created by the marriage. There are families that are now

joined through the union of this couple. We cannot ignore the fact that there are parents of the couple who are also impacted by the new relationship that is created by this marriage.

The fifth relationship that is involved is the relationship of the church to this couple. The church is affected by the creation of new families, not just more ministry shares to pay, but a new family to minister to, and to minister with. As a church, we are the body of Christ. We are a family that worships and ministers together. All of us are impacted by a marriage.

Common-law marriages may be recognized by the province, but they do not show recognition of the complexity of the relationships that are involved. We need to encourage couples to see the need to have marriages that are going to reflect a willingness to work within all of these relationships.

4) Conclusion

Based on all of the above, it is the conclusion of this committee that co-habitation or common-law relationships are contrary to God's Word and wishes.

B. PASTORAL CARE FOR CHURCH MEMBERS (AS IT RELATES TO MARRIAGE AND COMMON-LAW)

1) The committee proposes that each CRC Church in Classis Alberta North prepare an informative letter to the congregation regarding the Biblical teachings for marriage.

This letter would include:

- a. A Biblical explanation of marriage
- b. A legal explanation of marriage
- c. The view of the church regarding common-law living
- d. The importance of Christian couples marrying in the Lord (do not become unequally yoked)
- e. An outline of the Biblical directives if a member is presently living common-law and his/her mate has no desire for marriage.

This report could be used as a basis for such a letter, and the letter could be used as a basis for present and future pastoral care regarding common-law relationships.

Youth elders would include a discussion of the above when visiting with church youth after they reach the age of 16.

2) The responsibility of church leadership in teaching and pastoral care regarding marriage:

- a. The committee proposes that annually a sermon is preached regarding marriage, with specific teaching regarding the points above.
- b. At present, most churches insist that couples who marry in the church take a pre marital course. The committee recommends that churches also offer an annual course for singles dealing with the subject of marriage, choosing a Christian mate, the pitfalls of living common-law etc.
- c. When a professing member or couple in the church decides to live common-law, the pastor or church elder is responsible to meet with the couple/person to explain the

Biblical requirements for a marriage relationship. This may require several meetings over a period of time. During this time, the member is not to be involved in church leadership or teaching. If the couple or person decides to continue to live common-law, after a thorough, loving time of teaching and admonition, then the church council is to begin the process of church discipline as per the church order. This discipline is for the purpose of encouragement and correction. If the person or couple has baptized membership, then Profession of Faith would not normally be permitted.

- d. If a seeker or baptized member decides to commit his/her life to Christ but lives in a common-law relationship, the elder or pastor should discuss the relationship with the new Christian and make decisions based on the specific situation that exists.
- e. Churches need to identify members who can act as mentors to couples living common-law or those struggling in their marriages.
- f. Prior to a church membership transfer, a couple's marriage relationship should be confirmed at the new member visit by the elder or pastoral care worker.

C. PASTORAL CARE FOR PROSPECTIVE MEMBERS (AS IT RELATES TO MARRIAGE AND COMMON-LAW)

The church will need to struggle with balance between being patient with people as they are sanctified, and with giving a proper view of marriage that will conflict with the life style of those living common-law. In each instance, we will need to assess the needs of the couple or individual to determine what will be the most effective way to help them move from living in a way that conflicts with God's Word to becoming married. While that will take shape in different ways as we work, as different individuals, with many different people, some things are to be understood in terms of how we deal with people.

- 1) When a couple living common-law wants to become members of the church, we should begin the process of discipleship with them that will lead to marriage. As we do this, we should be up front with them that we are expecting that as they are professing their faith in Jesus, there is a change in their lives. One of those changes is that they will want to move from living common-law to being married.
- 2) The standard for all of our lives is to live according to God's Word. As such, couples living common-law should marry before membership.
- 3) When one partner of the couple is a member or wishes to be a member we need to deal with them as is best fitting for them. We cannot hold that person responsible for the choices of the other partner. Each case will have to be decided on its own merits.
- 4) People living common-law will not be allowed to take part in teaching or leadership of any ministry in the church.
- 5) Situations such as the following may need special consideration:
 - a. The cohabiters have children. For the sake of the children, the family should be encouraged to stay together. The church may be the place where each member of such a family finds God. As lives change, their attitude towards marriage may change.

b. Only one of the partners wants to become or is a member. A safe church home where the member can grow in faith may be important at this stage. It takes time to try to look objectively at each situation.

c. The length of the time the couple has been together. As the couple matures, there may be very little commitment difference between such cohabiters and married couples. It may only be a little step for them to take to have a meaningful ceremony among their new extended Christian family.

D. RECOMMENDATIONS

- 1) That this report is accepted and the committee is dismissed. The privilege of two committee members addressing Classis is requested when this report is studied by Classis.
- 2) Common-law relationships are contrary to God's Word, the Bible, and as such ought to be corrected with patient, loving discipline and pastoral care.
- 3) Professing members living in common-law relationships should not hold positions of leadership in the church. They are discouraged from partaking in the sacraments
- 4) Non-professing members living in common-law relationships may not hold positions of leadership in the church, nor partake of the sacraments, nor become members until their relationship is corrected.
- 5) Churches should prepare an informative letter to their congregation regarding the Biblical norms for marriage.
- 6) Pastors should annually preach a sermon regarding the Biblical norms for marriage.
- 7) Couples who marry in the church must take a premarital course. Churches should also offer an annual course for singles dealing with the subject of marriage.
- 8) Churches should identify members who can act as mentors to couples living common-law or those struggling in their marriages.

We trust this report will be of assistance, may be helpful to the up building of our churches and to the Glory of our God.

Humbly submitted by P. Borkent, A. Guillaume, Pastor D. Meinema, T. Sneep and F. Woudstra

Appendix 3

Marriage Essay by Bert den Boggende

The Church's Involvement in the Wedding: A Historical Survey of the Rite of Marriage: Pre-Christian and Christian

Preface

The starting point for this paper came with a consistorial request to provide some historical background to the church's involvement in the marriage ceremonies. The original idea still remains, though some material had been added in order to achieve greater coherence and a better perspective. Actually, relatively little has been written about the wedding rites, though many sociologists and theologians and some historians have written about marriage. Fortunately, the ideas about marriage can help one understand why the church became involved in the wedding rites. Essentially this paper is concerned with the origin, development and conflict of three models. As will be argued, the earliest model was the lay model: people simply decided to live together. Ancient laws indicate that the state was frequently involved, but there is no evidence of religious ceremonies. The second or ecclesiastical model was the result of the church's positive and negative views of marriage. The middle ages can be regarded as a period during which the two models clashed. Although by the end of the middle ages the ecclesiastical model had become the official norm, finalized by the Council of Trent, the lay model continued to be used. The third model came with the Reformation and was essentially a mixture of the two previous models. As will be seen, the Reformers differed in emphasis. Luther tended to think more in terms of the lay model, while Calvin was more sympathetic to the ecclesiastical model. In Canada, largely through Anglican influence, the emphasis has been on the ecclesiastical side of the mixed model. From this historical survey a few conclusions are drawn which, hopefully, will contribute to a better understanding of the church's involvement in the wedding.

Part I The Lay Model

The Ancient Near East

Relatively little is known about the actual weddings of the ancient world. Nevertheless, as will become evident from the sources that are available, one general model may be regarded as valid for this early period. The earliest written documents about marriage come from the laws of Ur-Nammu (2112-2095 BC), the founding ruler of the third dynasty of Ur. Although these laws deal with rape, fornication, adultery and divorce, and not with weddings, two aspects are stressed, namely legality and finance.³⁹ More than likely these two aspects were valid for the wedding as well. This becomes clearer in the laws of Eshunna (East of Baghdad; between 2000 and 1750 BC). Law 26 speaks about bride money and laws 27 and 28 speak about a formal marriage contract:

If a man takes a(nother) man's daughter without asking the permission of her father and her mother and concludes no *formal marriage contract* with her

³⁹ James B. Pritchard, ed., *Ancient Near Eastern Texts* (Princeton: Princeton University Press, 1969): 524. See also 526. Dates are taken from *ANET*.

father and mother, even though she may live in his house for a year, she is not a housewife.

On the other hand, if he concludes a formal contract with her father and her mother and cohabits with her, she is a housewife.⁴⁰

Possibly the bride money was a gift as seems to be the case in the law code of Lipit-Ishtar (first half 19th century BC; city of Isin; Sumer-Akkad), which speaks about betrothal gifts.⁴¹ On the other hand, the code of Hammurabi (1728-1686 BC; Old Babylonia), within a section dealing with commercial transactions, speaks about the acquisition of a wife (law 128).⁴² Although this code also uses the terms "betrothal gifts" and "marriage price" (see laws 159-166), there is not enough evidence to suggest that in Sumer-Babylonia wives were always bought. But the notion of acquisition does suggest, at least from the woman's perspective, that marriage was not necessarily a voluntary transaction. It seems justified to draw the conclusion that the wife was usually looked upon as property with the function to produce children.⁴³ In other words, women were regarded as second-class citizens.

The codification of several marriage customs shows that the state had some interest in an ordered organization of the family. But this codification, the state's involvement in marriage, did not make a marriage an official marriage. Yet, the legal nature of marriage came to play a crucial role in the development and conflict of the three models. Although this paper does not concern itself with the state's role in the wedding, it may be observed that in the Ancient Near east the marriage was not regarded as a legal but as a social institution. The recognition of the marriage by society and the state seems to have been based on cohabitation-with the wealthier segments of society undoubtedly using a contract, while the poorer people possibly dispensed with such a contract. Another observation needs to be made from these Sumerian-Babylonian codes: none make reference to a religious-cultic ceremony. It is this aspect which made the Sumerian-Babylonian marriage similar to Old Testamentic⁴⁴ and some modern, notably common law, marriages.

Jewish Marriage Rites

The O.T. contains very little about the actual marriage rites. Leading up to the marriage was the betrothal which was almost as binding as the marriage itself. According to Louis M. Epstein in *The Jewish Marriage Contract*, the betrothal represented the full legal consummation of the marriage.⁴⁵ Often, perhaps always, gifts were associated with the betrothal. There were essentially three types of gifts: 1. The "mohar," as exemplified by Eliezar's gifts to Laban and Rebekah's mother (Gen. 24: 53); 2. The dowry, a gift to the bride or groom from the bride's father (e.g. Gen. 24: 59, 61, and Jd. 1: 15); 3. The "mattan," a voluntary gift to the bride (e.g. Gen. 24: 22, 53). In different ways these gifts indicated a form of covenant and a recognition of the forthcoming marriage by the immediate family.

⁴⁰ Ibid.: 162; italics by the editors.

⁴¹ Ibid.: 160.

⁴² Ibid.: 171.

⁴³ See e.g. John A. Wilson, *The Culture of Ancient Egypt* (Chicago: University of Chicago Press, 1951): 94. But see I.E.S. Edwards, ed., *The Cambridge Ancient History* (1973) Vol. II pt. 1: 204-208.

⁴⁴ E. Schillebeeckx, *Marriage, Human Reality and Saving Mystery* (New York: Sheed and Ward, 1965): 83.

⁴⁵ Louis M. Epstein, *The Jewish Marriage Contract* (New York: Arno Press, 1973): 12.

The duration of the betrothal is nowhere stipulated. Actually, as the story of Tobias indicates, betrothal and nuptials could merge into one event (Tb. 7: 13-15; 8: 1). Whatever the fanciful aspects of this story, it is clear that the wedding could be a private affair witnessed by few people. The sleeping together⁴⁶ appears to constitute a marriage. According to Epstein, in antiquity cohabitation without further ceremony was socially common and legally sanctioned.⁴⁷

Several observations may be made here. In the first place, Tobias' marriage included a contract or "ketubah." This contract, which, as has been seen, was in origin Babylonian,⁴⁸ did not, according to Epstein, make the marriage valid or invalid.⁴⁹ In other words, a "ketubah" was not an absolute requirement. The "ketubah," as in the Muslim "mahar," could be regarded as a contract protecting the wife against abuse or providing her with some financial independence.⁵⁰ Secondly, many marriages started with public acknowledgements in the form of various ceremonies. Frequently a banquet was included, as can be gathered from the stories of Jacob (Gen. 29: 22), Samson (Jd. 14: 10), Tobias (Tb. 8: 20) or Cana (John 2: 2). Probably the banquet was preceded by a procession of the groom to the bride's house (and back?), perhaps accompanied by song and dance.⁵¹ Thirdly, weddings could include blessings, but as the stories of Rebekah (Gen. 24: 60), Ruth (Ruth 4: 11), or Tobias (Tb. 7: 13) make clear, these blessings came from parents, relatives or friends. Nowhere in the O.T. is there any indication that a priest was involved.⁵² There is nothing comparable to a "religious ceremony." Fourthly, the permission of parents was apparently not always required. For instance, Samson married a Philistine woman against the wishes of his parents (Jd. 14: 3).⁵³ Although such mixed marriages were forbidden, Samson's marriage as such was valid. Later on, however, at the time of Ezra-Nehemiah, such marriages were broken. Here is an example of priestly interference with marriage: the Mosaic laws and regulations were applied in all strictness. This point may help explain why in the early Christian era the clergy attempted to regulate various aspects of the marriage. Finally, the various ceremonies often connected with the marriage rites gave social or legal sanction to the marriage. Sometimes the sanction came in the form of witnesses, as in the story of Ruth or Tobias, or through the presence of wedding guests.

Although this O.T. evidence is scanty, it suggests that the moment of cohabitation began with some "ceremonies" which indicated the approval or acceptance of the immediate society. Whatever the variations between Babylonian and Israelite marriage rites, both represented essentially the lay model type.

⁴⁶ Cf. the Germanic notion of "sleeping under one blanket." See Edward Westermarck, *The History of Human Marriage*, Vol. 2 (New York: The Allerton Book Co., 1922): 437. See also endnote 68.

⁴⁷ Epstein, *Jewish Marriage Contract*: 18.

⁴⁸ *Ibid.*: 31.

⁴⁹ *Ibid.*: 5. See also Schillebeeckx, *Marriage*: 99 and 101 for after the exile.

⁵⁰ Epstein, *Jewish Marriage Contract*: 5.

⁵¹ Cf. Ps. 45: 14-16; Jer. 7: 34; 1 Macc. 9: 39; Mt. 25: 1-13; Lk. 12: 35-38. See also Schillebeeckx, *Marriage*:

⁵² Cf. Schillebeeckx, *Marriage*: 97.

⁵³ See also Esau: Gen. 25: 34-35; 27: 46; 28: 8.

Part II The Ecclesiastical Model

Greece and Rome, a Bridge

Like the people in the Ancient Near East, the Greeks and Romans regarded marriage as of great importance to the state and the family. But in early times this great importance did not mean that a formal wedding ceremony was necessary. According to W.K. Lacey, in Athens the formalization did not take place until around 400 BC, perhaps due to the modification of the rules for the entitlement of citizenship.⁵⁴ Marriage was regarded as essentially a matter of cohabitation and procreation.⁵⁵ The formalization did not affect the "gamos" or wedding feast but the legal nature. In the presence of witnesses a formal pledge or contract was concluded, which included the handing over of the bride.⁵⁶ As in the Ancient Near East, the woman was viewed as a second class citizen, a view described by Aristotle in his *De Generatione Animalium* (II-3). the formalization does not seem to have changed a certain distaste the Greeks had for marriage. According to Morton M. Hunt, "most men delayed marriage as long as possible, and entered upon it only when they dared no longer avoid it."⁵⁷ The Greeks did not connect love with marriage,⁵⁸ nor did they attach genuine ethical value to it. Hence, divorce was easy to obtain.⁵⁹ Although essentially a social action, marriage was regarded as a divine institution, which helps to explain why the wedding activities took place in a religious context. For instance, the nuptial rites included a sacramental bathing, sacrificial offerings to the gods of marriage and household divinities, and acts of worship at various shrines. With the Hellenistic period priests became involved, usually blessing the bride and groom and giving them instructions.⁶⁰ This priestly involvement did not mean that the marriage was now regarded as a sacramental union, but it was definitely a move away from the lay model type.

In ancient Rome, like ancient Greece, marriage was a **de facto** rather than a **de jure** matter.⁶¹ There existed, however, two different types which by the time of the Empire had become largely merged. The first type included the "manus," the second type did not. With "manus" the woman passed from her father's family to that of her husband's, becoming subject to his power. This transaction (the giving away) had a cultic significance, because

⁵⁴ W.K. Lacey, *The Family in Classical Greece* (Ithaca: Cornell University Press, 1968): 101, 104. The changes were made by Pericles in 451 BC. See also Schillebeeckx, *Marriage*: 242, and Jean-Pierre Vernant, *Myth and Society in Ancient Greece* (London: Methuen, 1982): 50.

⁵⁵ Vernant, *Myth and Society*: 45; Lacey, *The Family*: 110. Marriage in Sparta, with relics of a ritual violence, was by consent and began with clandestine intercourse. Ties of marriage were firm but not positive. See Lycurgian Laws. Xenophon regarded marriage as a partnership (*The Education of Cyrus*). See also Copleston, *A History of Philosophy*, Vol. 1: 262-3, on Plato and marriage.

⁵⁶ According to Lacey, *The Family*: 105, marriages without witnesses were regarded as shady.

⁵⁷ Morton M. Hunt, *The Natural History of Love* (New York: Grove Press, 1959): 26, 51. Cf. Schillebeeckx, *Marriage*: 242.

⁵⁸ Lacey, *The Family*: 107.

⁵⁹ *Ibid.*: 108, 114 (Plato), and Hunt, *Natural History*: 51.

⁶⁰ Schillebeeckx, *Marriage*: 243. In Boeotia a new wife was blessed by the priestess of Demeter, a fertility goddess. See E.O. James, *Marriage Customs Through the Ages* (New York: Collier Books, 1965): 95-96 (originally called *Marriage and Society*). For the rites of passage, see the discussion on Rome.

⁶¹ H.F. Jolowitz and Barry Nicholas, *Historical Introduction to the Study of Roman Law* (Cambridge: Cambridge University Press, 1972): 114.

the woman was transferred from one cult--that of her father--to that of another--that of her husband. "Manus" could occur in three ways. Firstly, by "confarreatio," a religious ceremony confined to patricians. A sacred cake was offered and eaten, while an animal was slain as a sacrificial victim.⁶² Secondly, by "coemptio," a purely secular form of marriage by purchase. Thirdly, by "usus," an uninterrupted cohabitation for ten months. "Manus" and marriage were distinct events, but "manus" was the normal accompaniment of marriage. However, gradually the family religion of the hearth or "sacra" was replaced and "manus" had become largely obsolete at the beginning of the Christian era.⁶³ By then the second type, marriage by mutual consent without "manus," was the common form. If there were ceremonies these could be divided into two stages. the first stage was the formal betrothal (sponsalia, desponsatio), which included bridal gifts, ring, kiss and arrangement of the marriage contract.⁶⁴ The second stage consisted of the marriage, the "obnubilatio capitis" (nuptials). The bridal couple wore a wreath of verbena, a plant sacred to Venus. Generally an animal was sacrificed to Jupiter. After a triumphal procession the bride was lifted over the threshold of her husband's house and installed as a materfamilias. These religious practices did not validate the marriage, but they normally accompanied the wedding, even at the time of the Empire. But whatever the form of the marriage rites, divorce could easily be obtained. As will be seen, the religious aspect and the divorce played significant roles in the formation and formulation of Christian marriages.

The Church in the Roman Empire

In order to understand the struggle of the early church in regard to marriage, it is necessary to survey two different and contradictory views, the one positive and the other negative. Already during the apostolic era, first century, these views became apparent. On the one side were the honoured status of women and the sanctity of marriage, while on the other side was the esteem for celibacy. In N.T. writings the two sides were kept in balance, but in the second century the notion that sex was evil started to gain the upper hand, first among the heretics but shortly afterwards also among the orthodox. Yet, the positive side was not ignored. Church leaders such as Epiphanius of Salamis (315-403), Augustine (354-430), Cyril of Alexandria (d. 444) or Maximus of Turin (380-468) referred approvingly to Jesus' presence at the wedding of Cana. From their statements it is evident that they saw marriage as a source of grace. hence, Origen (185-254) could say: "It is God who united the two into one, so that from the time the woman is joined to her husband, they are two no longer. And since God united them, therefore those who have been united by God have received grace."⁶⁵ For the early Church fathers it was God Himself who presided over the union, ratifying the promises to bride and groom. As representatives on earth the church and the bishops reflected, as it were, God's presidency. Thus Ignatius could say in his letter

⁶² The sacrifice was to Jupiter Farreus, hence its name. See Jolowitz and Nicholas, *Historical Introduction*: 115.

⁶³ G.H. Joyce, *Christian Marriage, A Historical and Doctrinal Study* (London: Steed & Ward, 1948): 42. See also James, *Marriage Customs*: 100; Schillebeeckx, *Marriage*: 233-242, for the development; and Jolowitz and Nicholas, *Historical Introduction*: chs. 8 and 13, esp. p. 234.

⁶⁴ Schillebeeckx, *Marriage*: 242; James Olthuis, *I Pledge You My Troth* (New York: Harper & Row, 1975): 4

⁶⁵ Origen, *Commentary on Matthew*, t. XIV, c. 16, in Joyce, *Christian Marriage*: 161; see also 159-160.

to Polycarp (c. 117) that "it becomes men and women..., when they marry, to unite themselves with the consent of the bishop, that the marriage may be after the Lord and not after concupiscence."⁶⁶ Or in the words of Tertullian (160/170-215/220), "Where shall we find power to declare the happiness of that marriage, which the Church arranges, which the oblation confirms, the benediction seals, which the angels proclaim, which the Father ratifies?"⁶⁷

It must be kept in mind that in the Patristic Age marriages of baptized Christians were celebrated like those of their pagan neighbours. In such a setting the church and the bishops, due to pastoral care and a growing importance of celibacy, began to exert their influence on married life. This influence grew gradually, but three events can be discerned which indicate the stages of development of the church's involvement in the civic arena. The first event took place during Callistus' papacy (217-222). Callistus allowed women of high Roman rank to live "in contubernium" with slaves or free men, a practice forbidden by Roman law.⁶⁸ According to C.J. Cadoux, Callistus' decision was evidence of the "Church's growing consciousness of independence and power over against the State."⁶⁹ The second significant stage came when Constantine gave the bishops a quasi-judicial authority.⁷⁰ The third stage came after the fall of Rome (410). While other institutions collapsed, the church as institution survived. As a result the imperial officials disappeared, while bishops became the leaders of the disorganized "civitas."⁷¹ As will be seen later, their new position facilitated the attempts to make civil law conform to the church's canons.

With the increasing power of church and bishops came an increasingly negative attitude towards marriage. It may not be coincidental that marital analogies were being replaced by martial analogies. At any rate, virginity and abstinence from sexual intercourse became increasingly a dominant norm, while marriage came to be regarded as second best or possibly as an escape from sin. Probably this asceticism was a reaction to Greco-Roman licentiousness.⁷² These various ideas contributed to a tendency within the church to regulate the marriage. In the West, the Roman marriage pattern came to dominate.⁷³ However, there were some significant changes. The pagan worship rites, e.g. the sacrifice to Jupiter, were replaced by liturgical Christian rites, e.g. the celebration of the mass.⁷⁴

⁶⁶ J.B. Lightfoot, *The Apostolic Fathers* (Grand Rapids: Baker Book House, 1974): 87. (reprint from 1891).

⁶⁷ Tertullian, *Ad Uxorem*, lib. ii, c. 9, in Joyce, *Christian Marriage*: 163.

⁶⁸ J.D. Douglas, ed. *The New International Dictionary of the Christian Church* (Grand Rapids: Zondervan, 1974): 176; Joyce, *Christian Marriage*: 43; Schillebeeckx, *Marriage*: 246-247. Callistus was criticized by Hippolytus for this action. Later, pope Leo I (440-461) declared a servile condition to be a bar to marriage with a free-man.

⁶⁹ C.J. Cadoux, *The Early Church and the World* (Edinburgh: T. & T. Clark, 1925): 444.

⁷⁰ Joyce, *Christian Marriage*: 216.

⁷¹ *Ibid.*: 217.

⁷² Hunt, *Natural History*: 101. Undoubtedly, gnostic ideas influenced asceticism.

⁷³ In the English language the terms have become confused; the word spouse is derived from the Latin betrothal: *desponsatio*. According to Joyce, betrothal and marriage coalesced, see *Christian Marriage*: 46, 85. This is rejected by D.S. Bailey, *Sexual Relation in Christian Thought* (New York: Harper & Brothers, 1959): 77-79.

⁷⁴ Schillebeeckx, *Marriage*: 255, 260-261.

These liturgical rites did not replace the civil transactions. There were no obligations to receive the ecclesiastical blessings. Consequently, throughout the middle ages the lay model continued to exert its influence.⁷⁵ But already in the second century the first known Christian scholar, Clement of Alexandria (155-220), in the *Paidagogos* (III-II) and the *Stromateis* (IV-20), objected to the civil transactions.⁷⁶ However, civil marriages were never regarded as invalid, for according to G.H. Joyce, "Neither the ceremonies prescribed by the Church nor the consummation of the unions are required."⁷⁷ One such ceremony was the blessing, of which pope Innocent I (401-417) once wrote: "We are taught that the blessing which is conferred on the bridal pair by the priest...is an observance of a law instituted long since by God."⁷⁸ If indeed it had been a necessary part of the marriage ceremony, the church would undoubtedly have protested against the civil legislation which stated that the formalities of marriage in no way effected the validity of the union. Even emperor Justinian I (483-565), who attempted to make civil law conform to the church's canons, did not require it.⁷⁹

At the end of the Roman Empire paganism had lost much of its prestige and the church, now well established, had become much more receptive to pagan religious practices in marriages.⁸⁰ Although the lay model was still common, the contours of the ecclesiastical model were already in place. As D.S. Bailey wrote in 1959,

The basic presuppositions...such as the superiority of virginity to marriage, the binding force and spiritual symbolism of matrimony, the incompatibility of wedlock and holy orders, and the contamination of coitus with a certain taint of evil were never challenged in principle.⁸¹

During the next thousand years this ecclesiastical model pushed the lay model more and more aside, although not without a struggle. In the process the new model acquired its central characteristic, marriage viewed as a sacrament. In the next section some aspects of this struggle will be discussed.

The Church in the Middle Ages

In this section attention will be given to the different interpretation of marriage between the Greek and the Latin churches; to the influence of German customs; to the state's cooperation to enforce the ecclesiastical model; to the issue of kinship, and to the marriage as a sacrament.

In 866 some Bulgarian Christians submitted a series of questions to pope Nicholas I. Greek priests had assured the Bulgarians that the sacerdotal blessing was necessary for the

⁷⁵ Cf. Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (Harmondsworth: Penguin, 1979): 29; Joyce, *Christian Marriage*: 52; James, *Marriage Customs*: 120.

⁷⁶ See Schillebeeckx, *Marriage*: 246 for Tertullian's objections.

⁷⁷ Joyce, *Christian Marriage*: 66.

⁷⁸ Innocent I, *Ep. 2, ad Victricium*, c. 6, in Joyce, *Christian Marriage*: 188.

⁷⁹ Joyce, *Christian Marriage*: 189-190, e.g. Theodosius II, Valentinian III in 428; but they required witnesses.

⁸⁰ Schillebeeckx, *Marriage*: 251.

⁸¹ Bailey, *Sexual Relation*: 102.

validity of a marriage.⁸² Nicholas rejected this assertion: "Let the simple consent of those whose wedding is in question be sufficient, as the [civil] laws prescribe. If this consent be lacking in a marriage, all other celebrations, even should the union be consummated, are rendered void..."⁸³ But not everyone in the West agreed with Nicholas, for his opponent Hincmar, bishop of Rheims, contended that consummation was essential to the marriage.⁸⁴ In other words, there was no agreement among leading churchmen. It should be no surprise then that so many people continued to adhere to the lay model of marriage. According to Jonas of Orleans (d. 844), the great majority of marriages took place without religious rites of any kind.⁸⁵ This was certainly true for the Germanic areas, where the lay model was the norm.

As has been seen, the Roman marriage custom had changed from the transfer of the authority over the bride (*mundium*) to a mutual consent. The latter custom, accepted by the Latin church, was not practised by the Germanic tribes. Instead, they adhered to the "*mundium*." Hence, the key condition for the validity of their marriages was the handing over of the bride by her father, a vestige of which is still observable in some wedding ceremonies.⁸⁶ Due to the desire for uniformity in Christendom the notion of consensus was gradually accepted by the Germanic tribes. Nevertheless, they kept or modified some traditions. For example, the Roman engagement ring, a pledge to marry, became the German wedding ring, a sign of the contract. One form of the marriage, the "*Friedelehe*," required no handing over of the "*mundium*" and no public act.⁸⁷ The latter aspect easily reminds one of common law marriages. Often a lay sponsor or "*Fuersprecher*" was chosen, who asked and received the consent of the parties.⁸⁸ It was this type, existing until late in the middle ages,⁸⁹ which developed into the marriage before a magistrate or notary. Furthermore, the priest's function, if he did participate, was restricted to the nuptial mass and blessing; the actual marriage was a purely civic transaction. One reason why so many couples did not bother with church ceremonies, in Germany and elsewhere, was that these were expensive and regarded as unnecessary luxury. Hence, pope Nicholas I could say to the Bulgarians that "it often happens that some are hampered by such extreme poverty that no help is forthcoming to enable them to prepare such celebrations."⁹⁰ Many poor couples had intercourse after the betrothal, which, according to the church, constituted a valid marriage. Bishop Otto of Vercelli (c. 950) still allowed that as long as local customs did not

82 Ibid.: 75-76; Joyce, *Christian Marriage*: 44, 47, 53, 190. Possibly the request dealt with clandestine marriages. See John T. Noonan, "Power to Choose," *Viator* (4, 1973): 419-434. For 15th century marriage agreements, see *Readings in English History*: 95-6. For the Bulgarians, see Latourette, *The 1000 Years of Uncertainty* (Vol. 2): 242.

83 Joyce, *Christian Marriage*: 45.

84 Hincmar, *De Nuptiis Stephani et Filiae Regimundi Comitis*, in Joyce, *Christian Marriage*: 54-55.

85 Jonas of Orleans, *De Institutione Laicale*, in Joyce, *Christian Marriage*: 104.

86 Schillebeeckx, *Marriage*: 256-259; Bailey, *Sexual Relation*: 117.

87 This contrasts to the Roman Merovingian law of the Franks; see Schillebeeckx, *Marriage*: 257.

88 In Lombard law he was called "orator;" Schillebeeckx used the term "Vormund," *Marriage*: 257.

89 Joyce, *Christian Marriage*: 50; see also 110. See also Roberta Frank, "Marriage in Twelfth-and Thirteenth-Century Iceland," *Viator*, Vol. 4, 1973: 473-484.

90 Stone, *The Family*: 29; Joyce, *Christian Marriage*: 106.

clash with Catholic practice, the conditions of marriage prescribed by civil law could be accepted.⁹¹ The ecclesiastical model may have been the preferred norm, but the practice differed significantly from the theory. It is likely that Luther returned to the Germanic custom.

As has been seen, pope Callistus' views clashed with established civic law. At that time the church did not yet have an organic system which could either rival or supplant civic law. But it had begun to develop such a system. Already the Byzantine emperor Justinian I tried to make his famous code conform to the church's canons. Emperor Charlemagne in 802 and Leo VI the Philosopher in 900 legislated that marriages contracted without the church's blessing were null and void.⁹² From these few examples it is clear that by the end of the ninth century the church in Byzantium, Italy, and by and large in France and Germany as well, had acquired "exclusive cognizance of matrimonial cases, and the secular power recognized the obligation of enforcing the sentence given in the bishop's court."⁹³ Yet, according to Joyce, it was not possible to

assign a precise date at which the church commenced to exercise jurisdiction over matrimonial causes in her own name, and the civil power recognized that these matters lay outside the province of the secular tribunals. The change took place gradually, and was not effected by a formal grant....It began as a matter of custom, and gradually was recognized as a matter of right.⁹⁴

Joyce's views that "these matters lay outside the province of the secular tribunals" may have been coloured by Roman Catholic glasses, but it is probably true that the church's jurisdiction over marriage was hardly challenged in the middle ages.⁹⁵ The issue of the degree of kinship showed that there was a limitation to the jurisdiction.

In order to safeguard the purity of marriage, if it were to compete at all with celibacy,⁹⁶ the church decided to expand the degree of kinship to which one could not marry from the fourth to the seventh. The move backfired because suddenly many marriages had now become incestuous. Consequently, such marriages made divorce necessary. During the middle ages the nobility made use of this unsatisfactory situation for their own purposes. In order to safeguard the marriage, the church retreated from the seventh degree back to the fourth, but in the process the church was able to win exclusive jurisdiction over all matters pertaining to marriage. Georges Duby has argued, in *Medieval Marriage*, that the church's victory came during the eleventh century, at least for Northern France. According to Duby, it was an end of an era in the history of marriage in the western world.⁹⁷ In other words, the lay model, the safeguard of the social order, had given way to the ecclesiastical model, the safeguard of the divine order. Definitely by the end of the twelfth century the church had

⁹¹ Joyce, *Christian Marriage*: 53.

⁹² Ibid.: 103; James, *Marriage Customs*: 120; Bailey, *Sexual Relation*: 116.

⁹³ Joyce, *Christian Marriage*: 223; see e.g. Regina of Pruem's *De Ecclesiasticis Disciplinis* of 906.

⁹⁴ Joyce, *Christian Marriage*: 225.

⁹⁵ Ibid.: 233.

⁹⁶ Bailey, *Sexual Relation*: 149.

⁹⁷ Georges Duby, *Medieval Marriage* (Baltimore: Johns Hopkins University Press, 1978): 80; Schillebeeckx, *Marriage*: 274.

gained a firm hold over the wedding ceremony in most of Europe. Yet, several decrees suggest that the church's control was not as absolute as Duby's conclusions would have us believe. The Lateran Council of 1215 decreed that banns should be published, that priests who blessed a clandestine union were to be suspended for three years, and that the couple of such a union should be punished. A clandestine marriage was a private marriage before a few selected witnesses. Perhaps Jan van Eyck's so called *Arnolfini and his Wife* of 1434 (National Gallery, London) portrayed such a wedding. repeatedly local councils in France and Germany spoke against these clandestine marriages: Bourges: 1286; Narbonne: 1374; Treves: 1227; Salzburg: 1420.⁹⁸ Such pronouncements would not have been necessary if everyone had adhered to the ecclesiastical model.

These various developments contributed to make marriage an ecclesiastical affair, but they did not make marriage a sacrament. This idea also took a long time to develop. It was Augustine who gave a general definition of a sacrament: an outward and temporal sign of an inward and enduring grace. According to Roman Catholic dogma, this is true for marriage which became the seventh sacrament, and with the priesthood one of the two social sacraments.⁹⁹ Augustine, discussing Ephesians 5: 21-32, called marriage a "sacramentum." As Schillebeeckx has correctly pointed out, Augustine had the insolubility and the symbolism of marriage in mind.¹⁰⁰ Although Augustine provided the basis for the marriage sacrament, it was really Berengarius of Tours (1050-1120), and the schoolmen in general, who strove to make marriage a sacrament, possibly as a reaction against the Manichaeian tendencies of the Cathari and Albigensians.¹⁰¹ Its full medieval expression came at the time of Thomas Aquinas (1224-1274), when marriage came to be viewed as an institution conferring grace and the solemnization of the marriage was made canonically obligatory.¹⁰² Although not finalized until the Council of Trent in 1563, the later middle ages had incorporated all the aspects of what has been called in this paper the ecclesiastical model. However, even before its finalization the Reformers attacked the Roman Catholic understanding of the sacraments and hence the ecclesiastical model. How much or little they changed will be seen in the next section.

Part III The Mixed Model **The Reformation and Beyond**

According to Luther, marriage was a purely natural institution. In his attack on the Roman Catholic understanding of sacrament in *The Babylonian Captivity* (also called the *Pagan Servitude of the Church*) of 1520 he commented that "there is no Scriptural warrant whatsoever for regarding marriage as a sacrament... Nowhere do we read that it was instituted by God in order to symbolize something...." Furthermore, he denied that by getting married "anyone would receive the grace of God." And he did not think that "the

⁹⁸ Joyce, *Christian Marriage*: 113. See also Henry Ansgar Kelly, "Clandestine Marriage and Chaucer's Troilus," *Viator*, Vol. 4, 1973: 435-458.

⁹⁹ A.W. Hoegen, "Het Heilig Huwelijk," in *De Katholieke Kerk*, ed. D. Bont (Utrecht: Het Spectrum, 1946): 975-1038, esp. 999-1006.

¹⁰⁰ Schillebeeckx, *Marriage*: 281-282.

¹⁰¹ *Ibid.*: 280-343.

¹⁰² *Ibid.*: 270, 357-358; Bailey, *Sexual Relation*: ch. IV; see the Decretum Gratiani, the medieval canon law.

rite of matrimony contain(ed) any hint that that ceremony is of divine institution."¹⁰³ As he wrote in his *Commentary on Matthew* (1532), matrimonial affairs "should be left to those skilled in the law, and should be put into the hands of the secular rulers. For marriage is a secular and external matter... and so is subject to the law of reason."¹⁰⁴ He preferred the non-involvement of the church in this matter.¹⁰⁵ For Luther the marriage was an institution for the perpetuation of the family in which the wife was definitely subordinated. His own wedding could be regarded as an example of a mixed model. On Tuesday evening June 13, 1525, he and Katharina von Bora were betrothed in the presence of five witnesses in the Black Cloister, an event which, according to the law, made them actually a married couple.¹⁰⁶ Since Luther desired his parents and some other friends to be present at the feast, the celebration was postponed till June 27, 1525, starting at 10:00 in the morning. As he wrote to his friend Amsdorf, "To give a public witness to my marriage, I shall give a party next Tuesday and my parents will be there. I definitely want you to be there too."¹⁰⁷ Although he did not think that a ceremony in church was necessary, the celebrations included a short religious ceremony, a service of rejoicing, which took place in the portal of the Wittenberg parish church. This was followed by a banquet in the Augustinian Cloister, a dance at the town hall and in the evening another banquet.¹⁰⁸ The emphasis fell clearly on the social aspect of the wedding. Luther's ideas and example had as result that the Lutheran princes, in the Schmalkaldic articles of 1537, declared the episcopal jurisdiction over marriage to be an unwarrantable invasion of their rights. This did not mean that the Lutheran Church dispensed with the religious ceremonies of a wedding; rather, the wedding (and marriage) came significantly closer to the lay model.

In many ways Calvin agreed with Luther: in the non-sacramental character of marriage, in the need of parental consent, in the woman's subjection to man, in the conception of marriage as a social institution.¹⁰⁹ But whereas Luther regarded the wife as essentially a bearer of children, Calvin saw her more as an inseparable associate of man's life. Moreover, while Luther rejected the intrinsic merit of virginity, Calvin admitted virginity as "a virtue not to be despised."¹¹⁰ In addition, Calvin regarded marriage as a holy estate, as is apparent from his *Institutes*. For example, on the seventh commandment he wrote that the marriage was "contracted in the Lord" (I. 8. 44) and when "entered under his (God's) authority,... also sanctified with his blessing" (I. 8. 41).

Although the Reformers turned to the Scriptures for their views, they were not always able to shake tradition. The high regard they had for marriage did not always mean a purely

¹⁰³ Luther, *The Babylonian Captivity*, 1520, in John Dillenberger, *Martin Luther* (Garden City: Anchor Books, 1961): 326. This does not mean that marriages as such were not divinely instituted.

¹⁰⁴ Joyce, *Christian Marriage*: 238.

¹⁰⁵ For Luther's views on marriage see *Luther's Works*, esp. Vols. 44, 45, and 46. One needs to take his views in connection with his statements on celibacy and vows.

¹⁰⁶ John Bugenhagen performed the ceremony which included a brief laying down in the future marriage bed.

¹⁰⁷ John M. Todd, *Luther* (London: Hamish Hamilton, 1982): 263.

¹⁰⁸ R. Bainton, *Here I Stand* (Nashville: Abingdon, 1950; 1978): 225-226.

¹⁰⁹ Calvin, *Institutes*, esp. IV. 19. 34. According to the Council of Trent, parental consent was a moral duty not a necessary condition for the validity. Luther and Calvin differ on this point.

¹¹⁰ Calvin, *Institutes*, II. 8. 42.

positive understanding. for instance, conclusion 9 of the *Ten Conclusions of Berne* (1528) reads as follows: "Marriage is not forbidden in Scripture to any class of men, but is commanded and permitted to all IN ORDER to avoid fornication and unchastity."¹¹¹ And the *Second Helvetic Confession* of 1566 modified the statement that wedlock was ordained by God Himself with the words "wedlock... is the medicine of incontinency, and continency itself."¹¹² In other words, there was less a break with the past than some statements of the Reformers would have us believe. The resultant mixture can be observed in practice, namely Calvin's marriage. Although Calvin did not marry Idelette de Bure until August 1540, he wrote to Farel in February that he wished him to be in Geneva to bless the wedding.¹¹³ While the civil magistrates had administrative functions, the emphasis was on the religious aspect of the wedding, quite unlike Luther's celebration. The mixed model did not come fully into its own until 1580 in the Netherlands. In that year civil marriage was made possible. The result is perhaps best exemplified in the marriage of Arminius to Lijsbeth Reael in September 1590. First they had to get permission to marry from the city of Amsterdam through its Commission of Matrimony. The Commission's functions were purely civil, yet it met in the sacristy of the Oude Kerk (Old Church). It kept a register of applications ("trouwboek") and only after entering the names in the register could the marriage banns be published. Since both were members of the church, their names were announced for the next three Sundays in the morning service of the Oude Kerk. Arminius' wedding took place on a Sunday afternoon in a service led by a minister, who, after a somewhat negative sermon on marriage, asked the couple to hold right hands. He then asked some questions and gave them his blessing. If both had not been church members, their names would have been announced from the steps of city hall. Undoubtedly they would then, like most couples, have avoided a Sunday wedding, which was regarded by most as unsuitable for feasting. And they would have been married by a city clerk.¹¹⁴

This 16th-17th century Dutch evidence suggests that there were two models available in Protestant Holland, namely, the mixed model and the lay model. This differed from Roman Catholic countries, which adhered to the Council of Trent's decision of 1563, which in essence was a reaffirmation of the ecclesiastical model. After a long time the British opted for an ecclesiastical model, which is apparent in the Form of Solemnization of Matrimony which hardly deviated from the medieval marriage rites. During the 16th century the church strengthened its hold over the moral conduct of the population and enlisted the help of the state. Even so, the clergy struggled to persuade members of the lower classes to abandon the traditional habit of consensual unions unblest by the church. this struggle should be no surprise, since, according to R. Soloway in *Prelates and People*, the lower classes were generally not church members.¹¹⁵ However, Anglicans came to regard the church wedding as the key ceremony, and their views were enacted in 1753 in the so-called Hardwicke's Marriage Act--in spite of the objections of civil lawyers. The Act

¹¹¹ John H. Leith, ed., *Creeeds of the Churches* (Richmond: John Knox Press, 1973): 130, capitals added.

¹¹² *Ibid.*: 188 (Ch. 29).

¹¹³ R. Schippers, *Johannes Calvijn* (Kampen: J.H. Kok, 1959): 93.

¹¹⁴ Carl Bangs, *Arminius* (Nashville: Abingdon, 1971): 133-134; Paul Zumthor, *Het Dagelijkse Leven in de Gouden Eeuw*, Vol. 1 (Utrecht: Het Spectrum, 1962): 113-115.

¹¹⁵ R.A. Soloway, *Prelates and People* (London: Routledge & Kegan Paul, 1969).

meant that only church weddings were valid.¹¹⁶ Although civil marriage was made optional by a law of 1835 (nearly half a century after the French Revolution which had ushered in the period of the civil marriage proper), the repercussions of the 1753 act can still be observed in Canada: even many unchurched couples still want to get married in church, and a minister functions as a civil servant.

This cursory glance at the post-Reformation period is indicative of the relatively few changes in the thinking about marriage. As D.S. Bailey has put it succinctly, "English theological interest in the relationship of man and woman was negligible."¹¹⁷ However, in the 20th century some significant changes have taken place, not the least of them the views on women. The last chapter in Bailey's book is indicative of the renewed thinking. As far as Karl Barth was concerned, the church's doctrine of matrimony, which was nothing but a doctrine of the wedding ceremony, needed to be overhauled.¹¹⁸ Although his view was somewhat historically defective, he at least realized that something needed to be done. Perhaps the key to the renewed understanding in such different thinkers as Brunner, Reinhold Niebuhr, Karl Barth, Bailey and more recently James Olthuis is the doctrine of the *imago dei*. More than 2000 years ago Aristotle wrote in *De generatione Animalium* (II-3) that the "female is as it were a male deformed." In a variety of expressions this idea has been dominant until the 20th century.¹¹⁹ Against this superior-inferior dualism many 20th century theologians and many in the women's movement have protested. For instance, James Olthuis has stated that "male and female *together* constitute 'man'."¹²⁰ Put differently, modern theologians are arguing that due to a misinterpretation of the *imago dei*, the church--and indirectly western society--has had a defective view of marriage. Their own interpretations of the *imago dei*, however varied, generally suggest for marriage a dynamic, essentially equal relationship between the partners. According to Olthuis, this relationship is characterized by truth or fidelity, "the staying power which gives special joy and color to intimacy in family, friendship, and marriage...(and) is the moral expression of love."¹²¹ Clearly, Olthuis has moved away from viewing marriage as a legal or ecclesiastical institution with which so much of this paper has dealt. It seems opportune to draw some conclusions.

Conclusions

There can be no doubt that the lay model, a marriage sanctioned by society without ecclesiastical rites, is the oldest form of weddings. The available biblical evidence suggests that this was the model of Bible times and of the Patristic Age. In other words, to draw the first conclusion, the church does not have to be involved to make a marriage a marriage, not even for the believers. However, the church did become involved and in its desire to regulate marriage affairs, developed its own organic model, the ecclesiastical model.

¹¹⁶ Stone, *The Family*: 32.

¹¹⁷ Bailey, *Sexual Relation*: 232.

¹¹⁸ Karl Barth, *Dogmatik*, III/4, quoted by Bailey, *Sexual Relation*: 156, 260.

¹¹⁹ See Olthuis, *I Pledge You My Truth*: 15, for such a statement by Augustine: "...the woman herself alone is not the image of God; but as regards the man alone, he is the image of God." See also Vern L. Bullough, "Medieval Medical and Scientific Views of Women," *Viator*, Vol. 4, 1973: 485-501.

¹²⁰ *Ibid.*: 15.

¹²¹ *Ibid.*: 22.

Although adopted by the church, many couples continued to follow the older tradition. The Reformers combined the two models, returning to the lay model and borrowing from the ecclesiastical model. The key idea seems to be the blessing, which, as has been suggested, was originally not an ecclesiastical rite but a form of acceptance by the immediate society. But the congratulatory priestly blessing OVER the marriage gradually turned into a legal and ecclesiastical blessing TO the marriage. As has been seen, some modern theologians have argued that marriage is basically neither legal nor an ecclesiastical institution. This raises the question to what extent the church can be involved. Over the centuries enough theological arguments have been marshalled to indicate that the church can play, if it so wills, a proper role in the wedding festivities. But the church needs to ask if some of the ceremonies are in agreement with the theology. For example, it is not so difficult to change the symbolism of the ring from the "sale's contract" to a pledge of fidelity and service to one another in the Lord. But can the giving away of the bride, an idea rooted in pagan dualism, be reconciled with the doctrine of the "imago dei"? Both Luther and Calvin objected to what they interpreted as the Thomistic dualism in Roman catholic theology. Yet, they allowed an ancient form of dualism in their understanding of the marriage. This suggests that the Reformational mixed model has some serious flaws if one accepts the Reformers' own basic presuppositions. This does not mean that the mixed model is necessarily wrong; it only means that some modern theologians are right in questioning the contours of the model.

One final comment should be made. The so-called common law marriage is essentially an example of the lay model. For long the state was uncomfortable with it because it lacked a civil contract. But as has been suggested in this paper, the legality does not make a marriage.¹²² The church has not been comfortable with it because it lacked ecclesiastical sanction, but history provides ample evidence that this is not an absolute requirement. What makes common law marriages unusual is the absence of the couples' public pledge. But the absence does not need to imply that a common law marriage is not a true marriage. On the other hand, the deliberate absence may be an indication of individualism, which, at least for believers, militates against the whole idea of "the church as fellowship." If so, much healing, much sensitivity and much pastoral care is needed, rather than the church's censure.

¹²² Schillebeeckx, *Marriage*: 380.

Appendix 4 Common Law Living and the Law

Although common-law couples live together without the legal sanction of the law, the law does recognize common law relationships. Under BC law, common law partners do have rights and responsibilities. The following is a brief summary of how the law views common law relationships. The summary is taken from the booklet *"Living Common-Law - Your Rights and Responsibilities"* produced by the Legal Services Society of British Columbia.⁽¹⁾ It should be noted that under some laws common-law couples have different rights than legally married couples.

What is a Common-Law relationship.

- If you're living as a couple but you're not married, you're in a common-law relationship. You can be a same-sex couple or an opposite-sex couple. If you're dating but don't live together, you're not in a common-law relationship.
- When you stop living together, the common-law relationship is over. You don't have to do anything else to end a common-law relationship.

Am I a spouse or a common-law partner?

- **Federal laws** distinguish between "*spouses*" and "*common-law partners*". They say only married people are spouses. Under federal laws, you become a common-law partner after you've lived with your same-sex or opposite-sex partner for **one year or more**.
- **BC provincial laws** refer to common-law couples as "spouses." Under most of these laws, you become a spouse after you've lived with your same-sex or opposite-sex partner for **two years or more**.
- In practical terms, the difference in terminology does not matter.
- For the purposes of income (welfare) assistance, the Ministry of Human Resources (MHR) considers you to be a common-law couple from the moment you start living together. If you get income assistance, it will be at the rate for a couple (plus any children), not as two single people. The moment you stop living common-law, MHR treats you as single again.

You never "become" married.

- To be legally married, you must have a legal marriage ceremony (religious or civil). After that, you stay married until one partner dies or until the marriage is legally ended by a divorce. So if you live in a common-law relationship and someone tells you: "*If you stay together X number of years, you're legally married,*" it isn't true. If you didn't have a legal marriage ceremony, you're not in a legal marriage.
- Note: There is nothing illegal about living in a common-law relationship while you're still legally married to another person.

The booklet then describes how the law applies to:

- Child Support, Custody, Access and Adoption.
- Rights and responsibilities such as Support for Partners, Property, Debts, Income Tax, RRSPs, etc.
- Benefits such as Income Assistance, Employment Insurance, Federal Pension Programs and Medical and Dental Plan Benefits.
- The legal options of the partners should the relationship end.
- The options a partner has in case of the death of the other partner.

⁽¹⁾ The full booklet is available (in PDF format) on the Legal Services Society's website at: www.familylaw.lss.bc.ca/subjectareas/commonlaw.asp.