

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 In today's circumstances, this argument of 'no available clergy' is no longer valid.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