

# The Contentious Triangle

CHURCH, STATE,  
AND UNIVERSITY

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A Festschrift in Honor of  
Professor George Huntston Williams

Edited by  
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# ANGLICAN MARRIAGE IN THE MAKING

## *Becon, Bullinger, and Bucer*



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IN *THE RADICAL REFORMATION*, George H. Williams captures the essential contribution of the Reformation to Western marriage and family life:

The Reformation as a whole, while not at the start intending to change marriage or sexual roles, or family life, impacted them significantly. The classical Reformation... was accomplished in part through the incorporation of the clergy, increasingly and at length normatively married, into communities and civic life. Pastors renounced their status in the medieval *sacerdotium* as a priestly caste, under separate canonical jurisdiction set apart from the urban and village citizenry under the common law, and eagerly became members of selected guilds, thereby directly involving themselves in civic duties and privileges. The married ministers of the Magisterial Reformation thus participated integrally in the consolidation of the reformed *sacra civitas*.<sup>1</sup>

The reformation of marriage and family life was, indeed, a central occupation of the “classical” Lutheran, Calvinist, and Anglican Reformations. The leading magisterial reformers—Martin Luther and Philip Melanchthon, Martin Bucer and John Calvin, William Tyndale and Thomas Cranmer—all wrote and preached at length on the subject. Scores of sixteenth-century jurists took up legal questions of marriage in their legal opinions and commentaries, often working under the direct inspiration of classical Protestant theology and theologians.

The controversy over clerical marriage was, indeed, one of the catalysts of the reformers’ early preoccupation with the place of marriage and family life within the “reformed *sacra civitas*.” Among the earliest Protestant leaders were ex-priests

<sup>1</sup>George Williams, *The Radical Reformation*, 3d ed. (Kirksville, Mo.: Sixteenth Century Journal Publishers, 1992), 755–56.

and ex-monastics who had forsaken their orders and vows, and often married shortly thereafter. It soon became an important symbolic act of solidarity with the new Protestant cause for former Catholic clergy as well as laity to marry (or to divorce and remarry) in open violation of the prevailing canon law rules of the Catholic Church. King Henry VIII of England's famous flouting of the traditional canon law of annulment and Prince Philip of Hesse's knowing violation of the canon laws of bigamy were only the most sensational cases. Such acts of deliberate disobedience were quite common in the early years of the Reformation, among clergy and laity, nobles and commoners alike. As Catholic Church courts began to prosecute these canon law offenses, Protestant theologians and jurists rose to the defense of their coreligionists—producing a welter of writings that denounced traditional canon law norms and pronounced bold new Protestant civil norms of marriage and family life.

This essay—dedicated to Professor Williams for his pathbreaking work on the Reformation—explores one small part of this story. My subject is the new Anglican theology and law of marriage that emerged in the wake of King Henry VIII's great battle with Pope Clement V over the annulment of his marriage with Catherine of Aragon. Henry's battle, from 1527 to 1534, was the catalyst of the English Reformation in general and of the English reformation of marriage in particular. It triggered an explosion of new Protestant literature in England both on marriage and its dissolution and on the canon law of marriage and its reformation. Some of this literature was indigenous, building on a two-century tradition of English antipapalism and anticanonicalism inaugurated by John Wycliff, William of Ockham, and others. Some of this literature was of Continental origin.<sup>2</sup>

Both genres of literature are reflected in the writings of three figures active from 1525 to 1565—Thomas Becon, Heinrich Bullinger, and Martin Bucer. These three figures do not figure prominently in conventional accounts of Tudor marriage doctrine and law. Yet, taken together, their writings provided a fertile seedbed out of which would grow many of the distinctive features of Anglican theology and English law of marriage.

#### THOMAS BECON

Thomas Becon—student of Anglican divines Hugh Latimer and George Stafford and chaplain to Archbishop Thomas Cranmer—anticipated many of the more famous formulations of marriage doctrine offered by John Jewel, Edmund Grindal, John Whitgift, and other leaders of the Church of England. Becon peppered many of his seventy-odd devotional and catechetical tracts with a variety of spicy

<sup>2</sup>See literature summaries in Chilton L. Powell, *English Domestic Relations 1487–1653: A Study of Matrimony and Family Life in Theory and Practice as Revealed by the Literature, Law, and History of the Period* (New York: Columbia University Press, 1917), 207–24; George E. Howard, *A History of Matrimonial Institutions*, 3 vols. (Chicago: University of Chicago Press, 1907), 1:364–70.

Protestant sentiments on marriage, which he drew together in a late-life title, *The Booke of Matrimonye* (c. 1560).<sup>3</sup> Several of Becon's tracts were bestsellers in Tudor and Stuart England, and remain among the classics of Anglican theology. Becon also helped to produce English editions of the influential marriage tracts of Continental reformers Heinrich Bullinger and Martin Bucer.

Like his Continental brethren, Becon inveighed bitterly against the decay of marriage in his day, and laid much of the blame on the Catholic canon law. In Becon's view, the canon law had "most filthely corrupted, mangled, and defiled all the misteries of God, of his holy worde, and blessed Sacramentes" and had "moste vilely and most wickedly embased, caste downe, and made almost of no reputation... the moste holy state of godly Matrimony." "[T]he glory of this christen matrimony is now greatly obscured, yea almost utterly extin[ct] and quenched throwe the abominable whoredom, stinckinge adultery, wicked fornication, and all kinde of uncleannes, which is used now a dayes among us."<sup>4</sup>

On the one hand, Becon charged, the canon law requirement of clerical celibacy had unleashed all manner of sexual pathos upon England.

The synagogue[s] of Satan are such and so great enemies to matrimony, that they had rather have their subdeacons, deacons, and priests, their monks and their friars, their canons and nuns... to be most filthy fornicators, abominable adulterers, stinking sodomites, and to be defiled with all kind of beastly and unnatural uncleanness, than once to suffer them to embrace holy wedlock.

England's "plage" of prostitution, bastardy, homosexuality, syphilis, and much else was, in Becon's view, "ayded and abeted" by the "evyl commaund" of clerical celibacy.<sup>5</sup>

On the other hand, Becon charged, the canon law had confused lay marital life through its imposition of unwieldy and unbiblical impediments to marriage, its recognition of secret marriages without church consecration, and its prohibitions against divorce for adultery and against the remarriage of widows and widowers. Becon condemned, with particular vitriol, the "evyl canons" that allowed the "child" to marry secretly, often driven more by lust than by love. When the inaptly married party comes to "see [an]other whome they coulde finde in theyr

<sup>3</sup>See *The Early Works of Thomas Becon, S.T.P.*, ed. J. Ayre for the Parker Society, 3 vols. (Cambridge: Cambridge University Press, 1843). This collection duplicates much from an earlier collection of Becon's writings, *The First Part of the Bokes, which Thomas Becon made* (London: J. Day, 1560–1564), save one title, *The Booke of Matrimonye both Profitable and Comfortable for all Them that Entende Quietly and Godly to lyue in the Holy State of Honorable Wedlocke* (c. 1560), in Ayre, vol. 1, bk. 12 (STC 1710), a tract of 236 folio pages. Becon's *Booke of Matrimonye* must not be confused with Heinrich Bullinger's *The Golde Boke of Christen Matrimonye* (1542), discussed below, published under Becon's pen name.

<sup>4</sup>Becon, *Booke of Matrimonye*, folios CCCCclxxv, CCCCclx, CCCclxiii.

<sup>5</sup>Becon, *Early Works*, 3:198. See also Becon, *Booke of Matrimonye*, folio DClxxviff.

harte to fansie and love better, than many of them beginne to hate one another.” This, in turn, Becon charged, ushered in an insidious pattern of easy annulments for the rich who can pay for a dispensation, and of permanently unhappy households for the poor who have no payment to dispense. Such households feature “frowning, ouerwharting, scolding, and chiding,” and such prevalent abuse of wives and children “that the whole house is filled full of these tragedies eue vnto the toppe” and “shortly after the whole towne is in a rore.” “What a wicked and hellyke life.”<sup>6</sup>

Becon set forth a familiar roll of Protestant principles to end this perceived wickedness. He summarized his suggestions in a series of pithy paragraphs contrasting “The Acts of Christ and of Antichrist [the Pope]” on questions of marital formation and dissolution:

Christ saith: “Honor thy father and thy mother”: in which comandment is required of children that they give not themselves to marriage without the consent of their godly parents. . . . Antichrist in the bestowing of children in marriage, requireth not the consent and good-will of the parents. . . .

Christ, by being present at a marriage with his mother and with his disciples, teacheth evidently that matrimony ought to be solemnly and openly proclaimed and celebrated, and that it ought not to be done in corners. Antichrist, for money, granteth dispensations for all men for to marry where they will, when they will, and with whom they will. All things are decent and lawful, if money come. All things obey money.

Christ in his doctrine did never forbid marriage to be contracted between any persons, except those degrees only which his heavenly Father had tofore forbidden by his servant Moses. Antichrist in his law prohibiteth many and diuers degrees to marry together whom God hath set at liberty . . . except they purchase a license of him for money: for money maketh all things lawful in the court; neither are his laws any other thing than nets for money.

[Christ] suffereth those that be god-fathers and god-mothers (as they term them) to be one child at baptism, to marry together, if they be loose and at liberty, and not forbidden by the law Levitical. [Antichrist] plainly forbiddeth this thing, and maketh the matter a spiritual consanguinity and a ghostly kindred, of much more force and strength than any carnal strength or fleshly consanguinity is.

Christ freely permitteth marriage to all degrees, none excepted, if they have not the gift of continency: neither doth he appoint any time where

<sup>6</sup>*Booke of Matrimonye*, folios CCCCcxliiii, CCCCclxxv-Dxxii.

it shall not be lawful to solemnize matrimony, but giveth liberty to all men at all times freely to marry. Antichrist... denieth marriage to all his clattering clergy, rather suffering them to burn and run awhoring... [H]e forbids at certain times of the year to celebrate matrimony; insomuch that whosoever presumeth in those forbidden times to marry is not only accursed, but his marriage also is not lawful.

[Christ gives] liberty to the guiltless and innocent man, having an harlot to his wife... not only to be divorced from that harlot, sometime his wife, but also to marry again... Antichrist in his law saith, If a man have an whore to his wife, it shall be lawful for him to be divorced from her, both from bed and board; but he may by no means marry again, live as he may....

[Christ gives] liberty to the faithful man or woman [to divorce an idolater and remarry]. Antichrist will by no means suffer any divorcement so to be made so that marriage shall follow, although the guiltless person burn so greatly.<sup>7</sup>

Each of these Protestant principles—parental consent to marriage,<sup>8</sup> church proclamation and consecration of marriage,<sup>9</sup> limitations of impediments to biblical forms,<sup>10</sup> permission for clergy to marry,<sup>11</sup> propriety of divorce for cause with

<sup>7</sup>Becon, *Early Works*, 2:532–33 (order slightly revised); see also *idem*, 3:198–99, 235–36.

<sup>8</sup>See, e.g., William Tyndale, *Doctrinal Treatises and Introduction to Different Portions of the Holy Scripture*, ed. H. Walter for the Parker Society (Cambridge: Cambridge University Press, 1848), 23, 169–70, 199; *The Sermons of Edwin Sandys*, ed. J. Ayre for the Parker Society (Cambridge: Cambridge University Press, 1842), 2:50–51, 281, 325–26, 434, 455; *Early Writings of John Hooper*, ed. S. Carr for the Parker Society (Cambridge: Cambridge University Press, 1843), 126, 137–38, 149; *Sermons of Hugh Latimer*, ed. G. E. Corrie for the Parker Society (Cambridge: Cambridge University Press, 1844), 169–70. For later Anglican views on parental consent, see Richard L. Greaves, *Society and Religion in Elizabethan England* (Minneapolis: University of Minnesota Press, 1981), 155–77.

<sup>9</sup>*The Remains of Edmund Grindal*, ed. W. Nicholson for the Parker Society (Cambridge: Cambridge University Press, 1843), 127, 143, 189; Hooper, *Early Writings*, 138. For later Anglican views, which were quite discordant on this point, see Greaves, *Society and Religion*, 177–90.

<sup>10</sup>*Miscellaneous Writings and Letters of Thomas Cranmer*, ed. J. E. Cox for the Parker Society (Cambridge: Cambridge University Press, 1846), 94–95, 328–29, 359–60; Grindal, *Remains*, 127, 143, 175; John Jewell, *Works*, ed. J. Ayre for the Parker Society (Cambridge: Cambridge University Press, 1845–1850), 3:1243–45.

<sup>11</sup>Cranmer, *Miscellaneous Writings*, 168–69; T. Cooper, *An Answer in Defense of the Truth against the Apology of Private Mass* (1562), ed. W. Goode for the Parker Society (Cambridge: Cambridge University Press, 1850), 171; *Remains of Myles Coverdale*, ed. George Pearson for the Parker Society (Cambridge: Cambridge University Press, 1846), 483–85; William Fulke, *A Defence of the Sincere and True Translations of the Holy Scriptures into the English Tongue*, ed. C. H. Hartshorne for the Parker Society (Cambridge: Cambridge University Press, 1843), 71–72, 115–17, 471–91; *idem*, *Stapleton's Fortress Overthrown*, ed. R. Gibbings for the Parker Society (Cambridge: Cambridge University Press, 1848), 93–104; Jewell, *Works*, 2:727–28, 882–83, 989, 1128–29, 3:390–411, 805–10; Nicholas Ridley, *The Works of Nicholas Ridley*, ed. H. Christmas for the Parker Society (Cambridge: Cambridge University Press, 1843), 302–5; William Tyndale, *An Answer to Sir Thomas More's Dialogue*, ed. H. Walter for the

rights of remarriage,<sup>12</sup> and propriety of remarriage by widows and widowers<sup>13</sup>—found substantial endorsement in the writings of contemporary Anglican divines. William Tyndale, Thomas Cranmer, John Hooper, John Jewel, Hugh Latimer, and Edmund Grindal in particular adduced an ample arsenal of ancient Christian and classical sources in support of many of these reforms. Several others took the further familiar step, on which Becon dithered,<sup>14</sup> of denying the sacramental character of marriage altogether, and thereby also questioning the propriety of the church's jurisdiction over marriage.<sup>15</sup>

Having critiqued at length the canon law, Becon outlined what he considered to be a more proper understanding of marriage. Marriage was not a condition to be despised or subordinated in dignity to the single, contemplative life. To the contrary, Becon wrote, marriage is the “best estate,” a “thyng of great excellency and incomparable dignitie,” created by God to “mayntayn,” “preserue,” and “prottytte the common weale and also set forth the glorye of God, of nature, and of man.” Marriage is a “great vocation and destynye,” which clergy and laity alike should embrace and enjoy. This institution is

an hie, holye and blessed order of life, ordayned not of man, but of God... wherein one man and one woman are coupled and knit together in one fleshe and body in the feare and loue of God, by the free, louing, hartly, and good consente of them both, to the extent that they may dwell together, as one fleshe and body of one wyl and mynd in all honesty, vertue and godliness, and spend theyr lyues in equal partaking of all such thinges as god shal send them with thankes geuyng.<sup>16</sup>

God ordained marriage for three causes, Becon wrote: love, procreation, and deterrence from sin. “The first cause” of marriage

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Parker Society (Cambridge: Cambridge University Press, 1850), 29, 52–53, 151–60. See also John Ponet, *A Defence for Mariage of Priestes* (London, 1549), and its rejoinder by Thomas Martin, *Traictise Declaryng and Plainly Provyng That the Pretensed Mariage of Priestes and Professed Persones Is No Mariage* (London, 1554).

<sup>12</sup>Hooper, *Early Writings*, 378–87.

<sup>13</sup>Jewel, *Works*, 3:390–92. For later Anglican views, see Greaves, *Religion and Society*, 191–201.

<sup>14</sup>Even in his *Booke of Matrimonye*, folio DCxlix.b, prepared after the Thirty-Nine Articles, Becon wrote of marriage as the man and woman “coupled in most hie love, in permixtion of bodies, in the confederate bond of the sacrament, and finally in the felowship of all chaunces.”

<sup>15</sup>See, e.g., Tyndale, *Doctrinal Treatises*, 1:254; Cranmer, *Miscellaneous Writings*, 115–16; Jewel, *Works*, 2:1125. Two decades later, this position was taken in the Thirty-Nine Articles, inspiring a torrent of homilies and commentaries on the subject. See, e.g., Thomas Rogers, *The Catholic Doctrine of the Church of England: An Exposition of the Thirty-Nine Articles*, ed. J. J. S. Perowne for the Parker Society (Cambridge: Cambridge University Press, 1844), 260–62.

<sup>16</sup>Thomas Becon, preface to [Heinrich Bullinger,] *The Golde Boke of Christen Matrimonye* (1542) (STC 1723), folios A.ii.b., Aiii; Becon, *Booke of Marimonye*, folio DCxvi-DCxvii.

is, that for asmuch as the solitary life is a sorowfull and uncomfortable life, and man in nature is desirous of compeny, and gladly liveth not alone: God... appointed this most holye order of life, and commaunded one man and one woman to live in the same, and that one of them might be a comfort, joye and help to another in all honest and godly things....[T]o have his familie and name extended, is greate gladnesse and felicitye, and the swete consolation of travaile.

Becon stressed these virtues of marital love several times, treating love as the sine qua non of human marriage and the sacramental symbol and seal of Christ's love for His church. The second cause of marriage, said Becon, is procreation, which must continue not only to perpetuate one's family name, but also that "the number of th'elect and chosen people of God be fulfilled." The third cause of marriage is to avoid "fornication, adultry, incest, Sodomitry, and all other kinde of uncleannesse."<sup>17</sup>

Becon left it mostly to others to define the legal steps for forming and maintaining this ideal state of matrimony. His own advice was mostly homiletic. To wit:

Art thou a father or mother, master or mistress? Bring then up thy family in the nurture of the Lord, and so art thou truly faithful. Art thou a married man? Look how thou cleave unto thy wife: love her as they own flesh, and as Christ loved the congregation. So shall thy faith appear to be unfeigned. Art thou a married woman? Be obedient to thine own husband, and seek above all things to please him, and so shalt thou shew thyself to be truly faithful.<sup>18</sup>

In his famous catechism, he further urged husbands to love, support, and defend their wives and children in an exercise of true godliness. He urged wives, in turn, to obey their husbands, to educate their children, and "to be chaste, pure and honest in dede, in word, in gesture, in apparrell and in all her behaviour."<sup>19</sup>

Becon offered more substantial advice in his several glosses on the Commandment, "Thou shalt not commit adultery." Like his Catholic and Protestant

<sup>17</sup>Becon, *Booke of Matrimonye*, folios DC xlviij–xljx, DCxxvi, DC l.b–li, DCliv.b. See also Becon, *Booke of Matrimonye*, DCxli.b–xlviij, DCl, DClxvi–DClxvi.b.

<sup>18</sup>Becon, *Early Works*, 1:272. Cf. Becon, *Early Works*, 371 (on marital faithfulness). Becon did offer a more substantial digest of domestic duties grounded in the familiar passages of St. Paul and St. Peter. His four-hundred-page *A New Catechism* (1560) devotes some thirty pages to the exposition of household duties—"Husbands toward Their Wives," "Wives toward Their Husbands," "Fathers and Mothers toward Their Children," "Children toward Their Parents," "Masters or Householders toward Their Servants"—followed by sections on the offices and duties of widows, young unmarried men, maids, and young unmarried women. Becon, *Early Works*, 2:344–77, with summary in idem, 3:130–35. He summarizes this section on duties in his *Booke of Matrimonye*, DClxiii–lxxviii. But this contribution was largely derivative and duplicative of Tyndale's and Bullinger's work, discussed below.

<sup>19</sup>Becon, *Booke of Matrimonye*, folios DClxxiii.b, DClxxiii–DClxxviii.

contemporaries, he viewed this Commandment as a source and summary of a biblical ethic on sexuality and marriage. The Commandment helped to systematize sundry biblical and natural commandments and counsels for married persons. Becon summarized its lessons in sweeping terms:

And forasmuch as matrimony is a holy state of life, God in the aforesaid precept requireth of all married persons, that they lead a pure, clean, and blameless life, that they be faithful and loving one to the other, that they break not the marriage vow, that they know not the company of any strange flesh, that they defile not themselves in mind with evil lusts and in the body with uncleanness; but that they be pure both in body and spirit, utterly estranged from all adultery, incest, whoredom, and whatsoever is unclean in the sight of God, living together in all godliness and honesty. And that the married folk may the better this do, God requireth also of them in this precept, that they suffer no fleshly thoughts to rise and rule in their hearts, but that they suppress them straightaways through earnest and hearty prayer, and through the diligent consideration of God's holy will, and through the fervent meditation of the sacred scripture; again, that they frequent the company of no lewd or ill-disposed persons, whereby they may be the rather provoked unto the breach of this commandment and unto dissolution of life: Item, that they avoid all wanton pastimes, all filthy communications, all uncomely gestures, all nice and lascivious apparel, all reading of wanton books, all beholding of unpure images or pictures, all banqueting and excess of eating and drinking, and besides, whatsoever may entice or move unto the filthy pleasure of the flesh; and finally, that in all their words and deeds there appear nothing in them but gravity, modesty, and honest behaviour, unto the good ensample of such as be their youngers and inferiors.... [T]hat God may bless them and their marriage, and make them joyful parents of many children, which in this world may be good members of the Christian commonweal, and in the world to come blessed citizens of that glorious and heavenly Jerusalem.<sup>20</sup>

The Commandment similarly enjoined unmarried persons against the “mortal folly” of fornication, incest, “and such other corporal uncleanness” as well as “filthy talk, wanton countenances, singing of bawdy ballads, reading of amorous books, idle jesting, vain pastimes, and whatsoever maketh unto the provocation of fleshly appetite.”<sup>21</sup>

In other glosses on this same Commandment, Becon thundered prophetically against “the louse and lascyvyous lyvyng” of his countrymen, particularly their habits of glibly contracting and dissolving marriages to “the great dishonour

<sup>20</sup>Becon, *Early Works*, 2:104, 97.

<sup>21</sup>Becon, *Early Works*, 2:99.

of God's institution." He even courted treason charges by intimating that the life of Henry VIII was both an illustration and instigation of undue sexual license. He called for a return to the "ancient byblycal remedies" of severe punishment for sexual sinners, execution for convicted adulterers and fornicators.<sup>22</sup> In cases of proven adultery, he followed the Gospel literally, allowing the innocent spouse to divorce and remarry, after all attempts at reconciliation had failed.<sup>23</sup>

Besides offering his own writings, Becon helped to introduce two systematic Protestant tracts from the Continent that came to work a considerable influence on later Anglican theology of marriage: (1) *The Golde Boke of Christen Matrimonye* by Zurich reformer Heinrich Bullinger, an eighty-page exposition of a covenantal model of marriage; and (2) *On the Kingdom of Christ* by Strasbourg reformer Martin Bucer, nearly half of which was devoted to elaborating a social model of marriage based on the evangelical doctrine of the two kingdoms.

#### HEINRICH BULLINGER

Heinrich Bullinger's *Golde Boke of Matrimonye* set out, in accessible terms, a covenantal model of marriage.<sup>24</sup> Bullinger built his model on the foundation of Uldaricus Zwingli's work, and used it to advocate several legal reforms in Zurich in the 1540s and 1550s. Bullinger was also, as Professor Williams points out, "a perceptive but tendentious chronicler and lifetime opponent of Anabaptism," and several of his teachings on the covenant of marriage were designed to counter those of the Anabaptists.<sup>25</sup>

"Wedlocke," Bullinger wrote, "is a couvenante, a couplinge or yokynge together" of one man and one woman "by the good cosente of the bothe." "Holy wedlocke was ordyned of God himselfe in Paradise.... God was the fyrst causer of wedlocke, and [spliced] and knyt them together, & blessed them." It is thus an "honorable and holy" estate, enjoyed by the "holiest, & most vertuous, the wysest

<sup>22</sup>Becon, *Early Works*, 3:5–6; "A Homily of Whoredome and Uncleynesse," in *Certayne Sermons, or Homilies, Appointed by the Kyniges Maiestie* (London: Richard Grafton, 1547), c.i–e.iii (STC 13639); Preface to Bullinger's *The Golde Boke*, folios A.iiii.b–B.vi.b.

<sup>23</sup>Becon, *Booke of Matrimonye*, folios DCxlii–DCxxxii provides a long discussion of Catholic and Continental Protestant views, quoting at length from several Church fathers and councils, and then Erasmus, Luther, Bucer, Melancthon, Calvin, Bullinger, Brenz, and others.

<sup>24</sup>Heinrich Bullinger, *Der christlich Eestand* (Zurich, 1540), translated as *The Christen State of Matrimonye* (London, 1541) (STC 4045), by Miles Coverdale, one of the early translators of the Bible into English, and as *The Golde Boke of Christen Matrimonye* (London, 1542) (STC 1723) under Thomas Becon's pseudonym, Theodore Basille. Bullinger's tract is the first magisterial Reformation writing that I have encountered to elaborate, in detail, a covenantal theology of marriage. Calvin's covenant theology of marriage emerged in his sermons and commentaries of the 1550s and 1560s. See Witte, *From Sacrament to Contract*, chap. 3. Both Bullinger and Calvin referred to the brief discussion of the marriage covenant in Zwingli's *De vera et falsa religione commentarius* (1525), in *Huldreich Zwinglis Sämtliche Werke* (Zürich: Theologischer Verlag, 1982), 3:590, at 762–63.

<sup>25</sup>Quote is from Williams, *The Radical Reformation*, 311; also see 1291–98 summarizing Bullinger's critique of Anabaptists, and 776–88 summarizing Anabaptist views on "covenantal marriage."

& most noble menne” in the Bible, and commended to all persons today—clerical and lay, young and old, single and widowed, rich and poor.<sup>26</sup>

God created marriage so that a man and woman “may lyve together honestly and frendlye the one with the other, that they maye avoyde uncleannesse, that they maye brynge up children in the feare of God, that the one maye helpe and comforte the tother.” Bullinger followed conventional arguments regarding the marital purposes of protection from lust and procreation of children—arguing that marriage is God’s “remedy & medycyne unto our feble and weake flesh” and that children are “the greatest treasure” of a marriage. But, like Becon, he placed special emphasis on marital love and friendship, returning to the theme several times in this and other writings. At creation, he insisted, God planted in Adam and Eve “the love, the harte, the inclinacion & naturall affection that it besemethe the one to have towarde the other.” The “mouthe of God thereby declareth the dewty knot and couenant of married folkes, namely that the hyghest love, bonde, and unite among them should be this, that no man separete them asunder, but only death. . . . The loue therefore in mariage ought to be (next unto God) above all loves,” couples rendering to each other “the moost excellennt and unpayneful seruyce, diligence and earnest labour, . . . one doying for another, one louyng, dependyng, helpyng & forbearyng another, sufferyng, also lyke joye and lyke payne one with another.”<sup>27</sup>

Such an ideal state of matrimony, Bullinger insisted, could be achieved only if the covenant of marriage were “framed ryght accordyng to the word and wyll of God.” Bullinger recognized the conventional steps of betrothal, wedding, and consummation, and glossed each step with ample avuncular advice based on biblical sources. Parties should enter marriage only by a “mature and mutual consente,” that is free from coercion, fraud, or the inducements of “carnall lust, mony, good, [or] flattery.” They should marry only fellow believers, since “mariage also concerne[s] the soule and inwarde man,” and be insistent that their spouse show true “feare of God” and a whole host of Godly virtues. They should avoid marriages with blood or family relatives listed in Leviticus, ending unions immediately if such a relationship is discovered. They should procure their parents’ consent, which ought to be given fairly, soberly, and with due admonition of the solemnity of the union. They should be married in a public church wedding officiated by “Gods minister” and “receave the blessing & commytte themselues to

<sup>26</sup>Bullinger, *The Golde Boke*, folios v, i.b–ii, iii, folios xxi.b, xxiii, xxxvib, lxxvii.b–lxxviii. The chapter commending clerical marriage (and criticizing mandatory celibacy and chastity) is included only in the 1541 edition at 27.b–31.

<sup>27</sup>Bullinger, *The Golde Boke*, folios bv–v.b, xix, xxi.b., iii.b–iii. On marital love, see also Bullinger, *The Golde Boke*, folios xxii–xxiii, xxxvi.b–xxxviii; *The Decades of Henry Bullinger: The First and Second Decades*, ed. Thomas Harding (Cambridge: Cambridge University Press, 1849), Second Decade, Tenth Sermon, 397–98. See similar sentiments in Edmund Tilney, *A Brief and Pleasant Discourse of Duties in Marriage, Called the Flower of Friendship* (London: 1571), folios Biiibv–Biiic, Biiia.

the common prayers of the congregation, and entone the same." By so doing, it is "openly declared in the sight of all the world, that it is God which knytteth the knot of mariage" and that "euery one is warned, faythfully to kepe his promyse, made and given to his spouse." After a suitable and "sober" celebration, they must enter their "first dwelling together."<sup>28</sup>

Bullinger did not leave the newly married couple untutored. The first few months of cohabitation are a "moost daungerous" time, he believed, and he thus devoted a third of his tract to describing the interlocking "dutyess of domestycyty" required by the marital covenant among husband, wife, and God. Bullinger went on for several pages advising couples about sex, food, dress, and other details of domestic economy, warning against excess in any of these. He then set out the couple's respective duties of "ordinate obedyence and coniugall love mutuall," following New Testament leads, and holding up the relationship of Christ and his Church "for an ensample or myrrour to the state of wedlocke and conjugal covenantal love." The wife owes her husband the duties of obedience, service, respect, devotion, modesty, courtesy, support, faithfulness, and honesty. The husband is the head of the wife, "her defender, teacher, and comforte," called to exhibit the selfless sacrificial love of Christ himself and the virtues of clemency, wisdom, integrity, and faithfulness. The wife must give proper care to the home, exhibiting cleanliness, industry, thrift, and judiciousness in her treatment of servants and neighbors. The husband must "labour for the common weal" of his family, exhibiting industry, honesty, integrity, and charity. Couples with children could turn to a dozen pages of Bullinger's instructions on the parental duties of breast-feeding, nurture, discipline, education, and dress of children, and, later, their courtship and contracting of marriage with a suitable partner.<sup>29</sup>

Bullinger's tract, Professor Williams writes, "stabilized Reformed ideas of husbands and wives and household management."<sup>30</sup> His description of the interlocking covenantal duties of husband and wife, and of parent and children within the household—a blending of catechism, confessional book, and instructional manual into a sort of spiritual "Dr. Spock"—became a trademark of the English tradition thereafter. The "dutyess of domestycyty" that Heinrich Bullinger pressed into thirty pages of terse text in 1540 became the subject of some six hundred pages of prolix prose by William Gouge eighty years later.<sup>31</sup> Dozens of such books flowed from the pens of English divines in the later sixteenth and seventeenth centuries.<sup>32</sup>

<sup>28</sup>Bullinger, *The Golde Boke*, folios vi–xviii, xlii.b–xliii.b. See also *The Decades of Henry Bullinger: The Fifth Decade*, ed. T. Harding for the Parker Society (Cambridge: Cambridge University Press, 1852), Tenth Sermon, 510.

<sup>29</sup>Bullinger, *The Golde Boke*, folios l.b.–lxvii.

<sup>30</sup>Williams, *The Radical Reformation*, 773.

<sup>31</sup>*Of Domesticall Duties: Eight Treatises* (London: John Haviland, c. 1622) (STC 12119).

<sup>32</sup>For earlier prototypes—from John Wycliff's *Of Weddid Men and Wifis and of Here Children* in the later fourteenth century to the section in Tyndale, *Doctrinal Treatises*, 168–200—see Powell, *English*

Even properly contracted marriages and dutifully maintained households can be rent asunder, Bullinger continued. The “shamefull, vycious and abhominable” sins of adultery, harlotry, and lust can affect even the noblest couple, and drive them to defy their “sacred covenantal duties” to God, spouse, and children. In the event of one party’s adultery or malicious desertion (which is tantamount to adultery), Bullinger wrote, “[d]ivorce is permitted of God.” Christ allowed divorce “for the helth & medicyne of man, and for amendment in wedlok,” even though this was a “perilous & pitefull” regimen. This “medicyne” of divorce could not be administered by the couple themselves, but by a disinterested judge, who had to hear their petitions and find adequate cause for the dissolution of their marriage. Adulterous parties must be put to severe punishment—execution in egregious cases. Innocent parties must be free to remarry, for to prohibit remarriage is “violently to cast a snare about poore peoples neckes and to drave them unto vyce and synne.”<sup>33</sup>

The first English edition of Bullinger’s tract was printed anonymously in 1541. It was censored immediately, doubtless because of its open advocacy of clerical marriage and of divorce and remarriage—teachings (let alone practices) that remained illegal in England until 1547.<sup>34</sup> The book was republished in 1542 under a new title, *The Golde Boke of Christen Matrimonye*, and (at the instance of “the hungry printer”<sup>35</sup>) under Thomas Becon’s pen name, Theodore Basille. The suspect chapters on clerical marriage and divorce were quietly dropped from the new edition, together with two other chapters on impediments to marriage. This Becon edition of Bullinger’s tract was regularly reprinted, and various abridgements and summaries of it became standard texts for Anglican clerics for the next two centuries.<sup>36</sup>

Becon added a long preface to this 1542 edition of Bullinger’s *Golde Boke*, which extolled marriage not only for the spiritual good of the couple and their children, but also for the civil good of the commonwealth and church. By marriage, Becon wrote with ample bombast, many noble treasures chaunce unto us, vertue is mayntayned, vice is exchewed, houses are replenished, cities are inhab-

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*Domestic Relations*, 101–14. For later forms, see Powell, *English Domestic Relations*, 129–46, and James T. Johnson, *A Society Ordained by God: English Puritan Marriage Doctrine in the First Half of the Seventeenth Century* (Nashville: Abingdon Press, 1970). Powell says that Bullinger’s book “is by far the most important both for its content and its influence.” Johnson, *A Society Ordained by God*, 114.

<sup>33</sup>Bullinger, *The Golde Boke*, folios xxxiii–xxxvi.b, lxxvii.b. See also 1541 ed., folio lxxvi.b.

<sup>34</sup>See editor’s notes in Bullinger, *The Fifth Decade*, xviii–xix. 31 Henry VIII c. 14 (1539) prescribed, inter alia, maintenance of clerical celibacy and vows of chastity. This was repealed by 1 Edward VI c. 12 (1547), as well as subsequent legislation mandating the Thirty-Nine Articles.

<sup>35</sup>Becon, *Early Works*, 1:29.

<sup>36</sup>The work is summarized in Bullinger, *The Second Decade*, 393–435. In the 1586 Convocation, Archbishop Whitgift directed the lower clergy to study Bullinger’s *Decades* as part of their theological training. Alec R. Vidler, *Christ’s Strange Work: An Exposition of the Three Uses of God’s Law*, rev. ed. (London: SCM Press, 1963), 34.

ited, the ground is tyled, sciences are practised, kingdomes floryshe, amitie is preserued, the publike weale is defended, naturall succession remaynethe, good artes are taught, honest order is kepte, Christedome is enlarged, Goddes word promoted, and the glory of GOD hyghly auanced and sette further. On the stability of “this householde common weale” hangs the security of the whole commonwealth of England.<sup>37</sup>

MARTIN BUCER

Becon’s emphasis on the social utility of the “householde common weale” is central to Martin Bucer’s 1550 manifesto *On the Kingdom of Christ (De Regno Christi)*.<sup>38</sup> Bucer was one of the great Continental Protestants, an intimate associate of Luther and Melancthon, an influential mentor of the young Calvin, and a leading reformer of the theology and law of Strasbourg. Through Becon’s influence in part, Bucer had been appointed to a chair at Cambridge University in 1549. Bucer produced his *De Regno Christi* shortly after his arrival, summarizing his lifelong reflections on civil reforms, particularly the reformation of family lore and law. The work was formally dedicated to the young English king Edward VI, but practically was more significant in helping to shape an emerging theology of marriage in England.

Like Bullinger, Bucer taught that marriage was a “first and most sacred union of man and woman.” Marriage was to be “established in a holy way” in accordance with the laws of God. Persons should enter into it “gravely, deliberately, religiously, as befits those who have professed piety.” Bucer proffered many of the same prescriptions for the proper contracting of marriage that Bullinger had outlined, periodically echoing Bullinger’s description of marriage as a “compact” and “covenant” that symbolized the loving union of Christ with his Church. He likewise endorsed Bullinger’s rendition of the interlocking purposes of marriage—for mutual love and friendship, procreation of children, and protection from lust—with a similar emphasis on marital love, friendship, and sacrifice.<sup>39</sup>

Unlike Bullinger, however, Bucer placed special emphasis upon the social quality and utility of marriage. He was “moved by a sense for the common good,” in Professor Williams’ apt phrase.<sup>40</sup> He was also moved by the evangelical doctrine of the two kingdoms, which he had helped to formulate in the prior two

<sup>37</sup>Becon, preface to *The Golde Boke*, folio Aiiii.b. See similarly Becon, *Booke of Matrimonye*, folio DCxlix.

<sup>38</sup>Martin Bucer, *De Regno Christi* (1550), in *Martini Bucer Opera Latini*, ed. François Wendel (Paris: Presses Universitaires de France, 1955), vol. 25, with partial English translation in Melancthon and Bucer, ed. Wilhelm Pauck (Philadelphia: Westminster Press, 1969), 155, 315–33 (bk. 2, chaps. 16–21, 47 on marriage), and in *The Judgement of Martin Bucer concerning Divorce* (1644), in *Complete Prose Works of John Milton* (New Haven: Yale University Press, 1959), 2:416–79 (bk. 2, chaps. 15–47 with some omissions).

<sup>39</sup>Bucer, *De Regno Christi*, bk. 2, chaps. 15–16, 18, 19, 26, 38.

<sup>40</sup>Williams, *The Radical Reformation*, 372–73.

decades. According to conventional evangelical lore, God has ordained two kingdoms or realms in which humanity is destined to live, the earthly kingdom and the heavenly kingdom. The earthly kingdom is the realm of creation, of natural and civic life, where a person operates primarily by reason, law, and passion. The heavenly kingdom is the realm of redemption, of spiritual and eternal life, where a person operates primarily by faith, hope, and charity. These two kingdoms embrace parallel temporal and spiritual forms of justice and morality, truth and knowledge, order and law, but they remain separate and distinct. The earthly kingdom is fallen, and distorted by sin. The heavenly kingdom is saved, and renewed by grace—and foreshadows the perfect kingdom of Christ to come. A Christian is a citizen of both kingdoms at once, and invariably comes under the structures and strictures of each.<sup>41</sup>

Bucer regarded marriage as a social estate of the earthly kingdom alone. Though divinely ordained to serve a holy purpose, he wrote, “marriage is a *res politica*,” “a civil thing,” directed to “human ends, not spiritual goods.” As an earthly estate, marriage serves the “common good,” which Bucer defined as both the “internal good” of members of the household and the “external good” of subjects of the commonwealth. “[H]oly wedlock [is] the fountain of and seminary of good subjects,” designed for the “decency and well-being of the commonwealth,” for the “springing up of good men, and a right constitution of the commonwealth.” “[W]ho knows not that chastity and pureness of life can never be restored or continued in the commonwealth, unless it first be established in private houses, from whence the whole breed of men is to come forth.”<sup>42</sup>

This emphasis on the social utility of marriage was hardly startling. Many fellow divines, including Becon and Bullinger, said things similar, and one could trace these sentiments back to John Chrysostom, among other Church Fathers, whose writings had come to new popularity in England.<sup>43</sup> But Bucer pressed this logic to conclusions most radical for his own day. Marriage must be maintained if it caters to the common good, Bucer said. But it must be dissolved if it detracts from the common good. Serving the common good became, for Bucer, not an aspirational goal of marriage, but an essential condition for its continuance.

There are “four necessary properties” to any “proper and useful” marriage, he wrote,

1. That the [couple] should live together....
2. That they should love one another in the height of dearness. . . .
3. That the husband bear himself as

<sup>41</sup>See sources in Harold J. Berman and John Witte, Jr., “The Transformation of Western Legal Philosophy in Lutheran Germany,” *Southern California Law Review* 62 (1989): 1573, 1585–1595.

<sup>42</sup>Bucer, *De Regno Christi*, bk. 1, chaps. 2, 5; bk. 2, chaps. 15, 21, 28, 47.

<sup>43</sup>John Chrysostom, for example, wrote: “The love of husband and wife is the force that welds society together. Because when harmony prevails, the children are raised well, the household is kept in order, and neighbors and relatives praise the result. Great benefits, both for families and states, are thus produced.” *Homily 20*, in *St. John Chrysostom on Marriage and Family Life* (Crestwood, NJ): St. Vladimir’s Press, 1986), 43, 44. Both Bucer and Becon cite this tract repeatedly.

the head and preserver of the wife, instructing her to all godliness and integrity of life; that the wife also be to her husband a help, according to her place, especially furthering him in the true worship of God, and next in all the occasions of civil life. And 4. That they not defraud each other of conjugal benevolence.

Marriages that exhibit these four properties must be maintained and encouraged. But “where only one [property] be wanting in both or either party . . . it cannot then be said that the covenant of matrimony holds good between such.” Improper separation, loss of love, or defiance of religious devotion, marital duty, or conjugal debts: each breaks the marriage bond. For each of these lapses betrays an essential condition of marriage and thus denies its reason for being.<sup>44</sup>

To perpetuate the formal structure of marriage after a “necessary property” is lost is a destructive custom, Bucer believed. It is also an unbiblical practice. “[T]he Lord did not only permit, but also expressly and earnestly commanded his people, by whom he would that all holiness and faith of the marriage covenant be observed, that he [who] could not induce his mind to love his wife with a true conjugal love, might dismiss her that she might marry to another” who is more meet and good.<sup>45</sup>

On this foundation, Bucer advocated the replacement of the canon law of divorce with the more liberal divorce provisions of the earlier Christianized Roman law. He dismissed the canon law remedy of separation of bed and board, with no right of remarriage, as just the kind of destructive custom that should be avoided. He likewise replaced the small list of causes for separation recognized at Catholic canon law with the more ample roll of causes for divorce recognized at Christianized Roman law. Bucer intimated strongly that divorce should be granted on grounds of “mutual consent alone,” as earlier Roman law had (for a time) allowed.<sup>46</sup> He confirmed a wide range of causes for divorce recognized at Roman law that were considered deleterious to the common good of family, state, or church:

If the husband can prove the wife to be an adulteress, a witch, a murderess, to have bought or sold to slavery any one free born, to have violated sepulchers, committed sacrilege, favored thieves and robbers, desirous of feasting with strangers, the husband not willing, if she lodge forth without a just and probable cause, or frequent theaters and sights, he forbidding, if she be privy with those that plot against the State, or if she deals falsely, or offers blows [he may divorce her]. And if the wife can prove her husband guilty of any of those forenamed crimes, and [he] frequent

<sup>44</sup>Bucer, *De regno Christi*, bk. 2, chap. 38, 39.

<sup>45</sup>Bucer, *De regno Christi*, bk. 2, chap. 26.

<sup>46</sup>Bucer, *De regno Christi*, bk. 2, chap. 40. On the earlier Roman law of divorce, see Susan Treggiari, *Roman Marriage: Iusti Coniuges from the Time of Cicero to the Time of Ulpian* (Oxford: Clarendon Press, 1991), 435–82.

the company of lewd women in her sight, or he beat her, she had the like liberty to quit herself, with this difference, that the man after divorce might forthwith marry again, the woman not till a year after, lest she might chance to have conceived.<sup>47</sup>

All such pernicious conduct by a husband or a wife had to end the marriage, in Bucer's view, for to perpetuate the union thereafter served neither the internal good of the household nor the external good of the community.

Bucer's emphasis on the social dimensions of marriage also led him to advocate exclusive state jurisdiction over marriage. Bucer was in favor of local parishes and clerics' maintaining internal codes of spiritual discipline to guide their members on questions of marriage and sexuality. But he stood firmly against any exercise of legal or political authority by the clergy over questions of marital formation, maintenance, and dissolution. It was up to the Christian king, he wrote, "to take up the just care of marriages," following the tradition of the ancient Hebrew monarches and Christian Roman emperors. "[P]ious princes and commonwealths both may and ought [to] establish" a civil law of marriage. To Bucer, this was self-evident, given that marriage was a "civil thing" of the earthly kingdom. "[N]o wise man can doubt," he wrote confidently, "that it is necessary for princes and magistrates first with severity to punish whoredom and adultery; next to see that marriages be lawfully contracted, and in the Lord, then that they be faithfully kept; and lastly, when that unhappiness urges, that they be lawfully dissolved, and another marriage contracted, according as the law of God, and of nature, and the constitutions of pious princes have decreed."<sup>48</sup>

#### SEEDBED OF A NEW THEOLOGY AND LAW OF MARRIAGE

Becon, Bullinger, and Bucer set out many of the main themes of the emerging Anglican theology and English law of marriage. From different perspectives, each of these writers insisted on chipping away various canon law accretions from biblical and apostolic norms of marriage. Each criticized the traditional sacramental construction of marriage, the subordination of marriage to celibacy, the inflation of impediments to betrothal and marriage, the restriction of divorce to separation from bed and board, among other canon law institutions. Each insisted on the familiar Protestant requirements of mutual, parental, and communal consent to marriage, church consecration and registration of new unions, marriage for clergy and laity alike, divorce for cause, rights of remarriage for innocent divorcees and for widows and widowers. Each treated marriage as a natural, contractual, social, and spiritual union which was held together by the mutual love and duties of husband and wife, and by the mutual nurture of church and state. Each insisted that marriage was a covenant involving God, husband and wife, and the

<sup>47</sup>Bucer, *De Regno Christi*, bk. 2, chap. 37, with fuller exposition in chaps. 40–44.

<sup>48</sup>Bucer, *De Regno Christi*, bk. 1, chaps. 8–9, bk. 2, chaps 1–2, 15, 40, 47.

broader community, created to serve the ends of mutual love, mutual protection from sin, and mutual procreation and nurture of children.

Bullinger and Bucer added their own variations on these common themes. Bullinger stressed the internal covenantal duties of domestic love, devotion, and support between husband and wife, parent and child. Bucer stressed the external common goods of the household for the church, state, and broader commonwealth. Bullinger stressed the church's role in the communication and enforcement of biblical duties of the domestic covenant. Bucer vested the state with principal governance of the formation and dissolution of marriage. Bullinger adduced primarily biblical sources for his construction of marriage. Bucer added a variety of norms from natural law, the law of nations, and Christianized Roman law. Bullinger focused on marital formation and adumbrated various biblical norms governing betrothals, weddings, and initial cohabitation. Bucer focused as well on marital dissolution and adduced various historical norms justifying separation, divorce, and remarriage.

The writings of Becon, Bullinger, and Bucer provided a fertile seedbed out of which would grow a rich Anglican theology of marriage. The "companionate view of marriage" is usually traced to seventeenth-century Puritan communitarianism and eighteenth-century "affective individualism."<sup>49</sup> But Becon, Bullinger, and Bucer had already emphasized that marital love was a necessary, even indispensable, condition of marriage, and this theme recurs throughout sixteenth-century Anglican theological and English popular literature. The "covenantal construction of the household" is often treated as the unique contribution of Puritanism in England and New England in the seventeenth and eighteenth centuries.<sup>50</sup> But Bullinger and Bucer had rendered this construction commonplace among Anglican theologians by the later 1550s. The "commonwealth model of marriage," which treated the domestic household as the prototype and progenitor of the broader English commonwealth, is usually described as the signature contribution of English divines at the turn of the seventeenth century.<sup>51</sup> But, half a century before, Becon and Bucer had already described the household as "a little commonwealth," and "seminary of the republic," that catered to the common good of the couple, their children, and the broader community.

The writings of Becon, Bullinger, and Bucer also provided a fertile seedbed for the growth of a new English law of marriage. The fullest expression of their legal principles came in the aborted *Reformation of Ecclesiastical Law* (1552/1571)

<sup>49</sup>See Johnson, *A Society Ordained by God*, 51–120 (on Puritan views); Lawrence Stone, *The Family, Sex, and Marriage in England 1500–1800* (New York: Harper & Row, 1979), 217–53 (on affective individualism).

<sup>50</sup>See William and Malleville Haller, "The Puritan Art of Love," *Huntington Library Quarterly* 5 (1941–1942): 235–72; Edmund Leites, *The Puritan Conscience and Modern Sexuality* (New Haven: Yale University Press, 1986).

<sup>51</sup>See sources and discussion in Witte, *From Sacrament to Contract*, chap. 4.

drafted by a commission led by Archbishop Thomas Cranmer.<sup>52</sup> This document included every legal reform of marriage advocated by Becon, Bullinger, and Bucer, and much more—save Bucer's insistence on removing jurisdiction over marriage from church courts to civil courts. Parliament twice refused to pass this *Reformatio*. Yet many of its discrete reforms of marriage law slowly soaked into the English law in subsequent decades. The Elizabethan Parliament mandated the Thirty-Nine Articles (1562/71), which denied that marriage was a sacrament.<sup>53</sup> The same Parliament also mandated *The Book of Common Prayer* (1559) that required publication of marital banns, a public wedding in the face of the church, and a prescribed marital liturgy featuring ritualized blessings, Bible readings, formulaic prayers, a homily, and public celebration of the Eucharist.<sup>54</sup>

The Elizabethan Parliament also confirmed a number of the specific reforms passed earlier during Henry VIII's and Edward VI's reigns: Impediments of consanguinity and affinity were restricted to those set out in Leviticus—with no expansions or dispensations allowed. The canon law impediment of precontract, which had earlier allowed fully consummated marriages to be broken on discovery of a prior contract to marriage, could now be enforced only if the subsequently married couple had no children. Parishes were ordered to keep a marriage registry, putting the public on notice of existing marriages. Priests were granted freedom to marry, without prejudice to their person, property, or profession, and guaranteed the same punishment as the laity if convicted for adultery or fornication. Children of properly solemnized and consecrated marriages were to be treated as presumptively legitimate; all others were to be treated as bastards who were subject to severe civil restrictions and deprivations. Various sexual crimes, particularly buggery, bestiality, and sodomy, were newly and repeatedly condemned as capital offenses.<sup>55</sup> All these legal reforms had antecedents or analogues in the writings of Becon, Bullinger, and Bucer.

Subsequent legislation introduced several of the other marital law reforms they had advocated. The 1604 Canons mandated marital formation requirements of parental consent, two witnesses, marital licenses, and church consecration—provisions underscored forcefully by Lord Hardwicke's Act of 1753.<sup>56</sup> The 1653 Civil Marriage Act, passed by the Commonwealth Parliament, consigned marital

<sup>52</sup>See James C. Spalding, ed., *The Reformation of the Ecclesiastical Laws of England, 1552* (Kirksville, Mo.: Sixteenth Century Essays and Studies, 1992), and 1571 edition in Edward Cardwell, ed., *The Reformation of the Ecclesiastical Laws* (Oxford: Oxford University Press, 1850).

<sup>53</sup>Arts. XXIII, XXV (1571 ed.); Art. 31 (1562 ed.).

<sup>54</sup>*The Book of Common Prayer 1559*, ed. John E. Booty (Charlottesville: University of Virginia Press, 1976), 290–91, mandated by 1 Eliz. c. 1 (1559).

<sup>55</sup>32 Henry VIII c. 38, repealed by 2 & 3 Edward VI c. 3 and 1 & 2 Mary c. 8, partly confirmed in 1 Elizabeth c. 1; 32 Henry VIII c. 10, 19; 2 & 3 Edward VI c. 21; 1 Edward VI c. 12, repealing 35 Henry VIII c. 5; 25 Henry VIII cc. 6, 21 and 2 & 3 Edward VI c. 29, confirmed in 5 Elizabeth c. 17.

<sup>56</sup>See Canons 101–6 in Edward Cardwell, ed., *Synodalia: A Collection of Articles of Religion, Canons, and Proceedings of Convocations in the Province of Canterbury* (Oxford: Oxford University Press, 1842) and 26 George II c. 33 (1753).

jurisdiction to civil judges—a change outlawed by the Restoration of 1660, but reintroduced into English law in the Matrimonial Causes Act of 1857.<sup>57</sup> This same 1857 Act also introduced private causes of action for divorce and the right to remarry on proof of adultery—with subsequent divorce reform legislation slowly embracing other causes beyond adultery. Only in the Divorce Reform Act of 1969 did Parliament accept what Bucer had urged in 1550: divorce by mutual consent alone.<sup>58</sup>

The writings of Becon, Bullinger, and Bucer were by no means the only sources of this distinctive lore and law of marriage. But, taken together, their writings were among the most profound, prescient and prophetic to be offered in the Tudor Reformation.

<sup>57</sup>See “How Marriages Shall Be Solemnized and Registered” (1653), in H. Scobell, ed., *A Collection of Acts and Ordinances of General Use Made in the Parliament* (London: Henry Hills and John Field, 1658), pt. 2, 236–38; 12 c. 2, c. 33 (1660); 20 & 21 Victoria c. 85 (1857).

<sup>58</sup>See Scobell, *A Collection of Acts*, with analysis of later developments in Mary Lyndon Shanley, *Feminism, Marriage, and the Law in Victorian England, 1850–1895* (Princeton: Princeton University Press, 1989); Lawrence Stone, *Road to Divorce: A History of the Making and Breaking of Marriage in England* (New York/Oxford: Oxford University Press, 1995).

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