

To: The Clergy of the Diocese of Washington
From: The Right Reverend John Bryson Chane

Date: March 4, 2010

Regarding: The Implementation of the Marriage Equality Act in the District of Columbia

The District of Columbia's Marriage Equality Act, which permits the civil marriage of same-sex couples, is now law. This correspondence will address some of the history of marriage in this country, Resolutions C056 and D025 of the 2009 General Convention of the Episcopal Church, and new diocesan guidelines regarding same-sex marriages.

It must be understood that the Marriage Equality Act has passed the test of the District of Columbia's legislative process and rulings by both the District's Board of Elections and Ethics and the Superior Court of the District of Columbia. This Act guarantees and protects the human rights of minorities.

CIVIL AND HUMAN RIGHTS AND MARRIAGE EQUALITY

The Civil Rights Movement in this country did not just address the civil rights of African Americans, but in its breadth also raised other issues such as whether civil marriage is a basic human right. The United States Supreme Court in 1923 identified marriage as an essential privilege for the "orderly pursuit of happiness," but at that time did not name it as a fundamental human right. By the end of the 1920s, as hard as it is to imagine, 42 of the 48 states banned marriage between blacks and whites, and between whites and Mongolians, Hindus, Indians, Japanese and Chinese. In 1930 Filipinos were added to the list. By 1965, most states had eliminated such prohibitions, but interracial marriage remained a crime in the South. As ludicrous as it may seem now, a Virginia judge made a theological argument to support his state's bigoted law: "Almighty God created the races white and black, yellow, Malay and red and placed them on separate continents. The fact that he separated the races shows he did not intend for the races to mix."

The United States Supreme Court disagreed. In 1967, in the case of *Loving v. Virginia*, the high court overturned the conviction of an interracial Virginia couple, and struck down the state law prohibiting interracial marriage. The Court opined that marriage was "one of the basic civil rights of man" and that it was "fundamental to our very existence and survival."

In the late 1960s, gay and lesbian partners began to seek equal access to the right of marriage. When pressed on the matter in 1970, President Richard Nixon said that he could understand the Court's ruling on the intermarriage of blacks and whites, but as for same sex marriage he said, "I could not go that far. That's the year 2000."

RELIGIOUS INTERPRETATIONS OF MARRIAGE

The role of religious denominations in interpreting and sanctioning marriage has been in flux throughout Christian history. There can be no mistake about this if one reads any scholarly

theological work on the subject. The issue of who may be married, and who decides who may be married, is further complicated by the fact that while religious groups may determine who is married in the eyes of members of a particular faith, the government decides who is married in the eyes of the state. The distinction between religious and civil marriage is frequently lost, not least because clergy often act as agents of the state in performing the typical “church wedding” which effects both types of marriage at once.

Government officials also blur this important distinction. President George W. Bush, in his 2004 State of the Union Address, said that the nation must defend the “sanctity” of marriage. He later called for a Constitutional amendment banning same-sex marriage. But “sanctity” is not for our Presidents to define or our government to protect, lest the freedom guaranteed by the First Amendment to our Constitution, which states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof,” be diminished by contemporary culture warriors.

Government officials should refrain from legislating sanctity; it is beyond their power. But the District of Columbia and the 50 states have every right to define civil marriage within their jurisdictions, and it is heartening to see the District is ready to bestow on same-sex couples legal and tax benefits—more than 1,000 of them—available only to heterosexual couples in most other jurisdictions.

PERTINENT RESOLUTIONS

The Episcopal Church passed two resolutions at its most recent General Convention that bear on the institution of marriage as understood by the Church.

Resolution CO56

Resolved, That “The 76 General Convention acknowledge the changing circumstances in the United States and in other nations, as legislation authorizing or forbidding marriage, civil unions or domestic partnerships for gay and lesbian persons is passed in various civil jurisdictions that call forth a renewed pastoral response for this Church, and for an open process for consideration of theological and liturgical resources for the blessing of same gender relationships, and be it further

Resolved that the Standing Commission on Liturgy and Music, in consultation with the House of Bishops, collect and develop theological and liturgical resources and report to the 77th General Convention, and be it further

Resolved that the Standing Commission on Liturgy and Music, in consultation with the House of Bishops, devise an open process for the conduct of its work inviting participation from

provinces, diocese, congregations, and individuals who are engaged in such theological work, and involving theological reflection through the Anglican Communion, and be it further

Resolved, That bishops, particularly those in dioceses within civil jurisdictions where same-gender marriage, civil unions, or domestic partnerships are legal, may provide generous pastoral responses to meet the needs of members of this Church, and be it further

Resolved, That this Convention honor the theological diversity of this Church in regard to matters of human sexuality; and be it further

Resolved, That the members of this Church be encouraged to engage in this effort.

Resolution DO25

Resolved, The House of Bishops concurring, That the 76th General Convention reaffirm the continued participation of The Episcopal Church as a constituent member of the Anglican Communion, give thanks for the work of the bishops at the Lambeth Conference of 2008; reaffirm the abiding commitment of the Episcopal Church to the fellowship of churches that constitute the Anglican Communion and seek to live into the highest degree of communion possible; and be it further

Resolved, That the 76th General Convention encourage dioceses, congregations, and members of The Episcopal Church to participate to the fullest extent possible in the many instruments, networks and relationships of the Anglican Communion; and be it further

Resolved, That the 76th General Convention reaffirm its financial commitment to the Anglican Communion and pledge to participate fully in the Inter-Anglican Budget; and be it further

Resolved, That the 76th Convention affirm the value of “listening to the experience of homosexual persons,” as called for by the Lambeth Conference of 1978, 1988 and 1998, and acknowledge that through our own listening the General Convention has come to recognize that the baptized membership of The Episcopal Church includes same-sex couples living in lifelong committed relationships” characterized by fidelity, monogamy, mutual affection and respect, careful, honest communication, and the holy love which enables those in such relationships to see in each other the image of God” (2000-DO39)and be it further

Resolved, That the 76th General Convention recognize that gay and lesbian persons who are a part of such relationships have responded to God’s call and to have exercised various ministries in and on behalf of God’s One, Holy, Catholic and Apostolic Church and are currently doing so in our midst, and be it further

Resolved, That the 76th General Convention affirm that God has called and may call such individuals to any ordained ministry in The Episcopal Church, and that God’s call to the ordained ministry in The Episcopal church is a mystery which the Church attempts to discern for

all people through our discernment processes acting in accordance with the Constitution and Canons of The Episcopal Church; and be it further

Resolved, That the 76th General Convention acknowledge that members of The Episcopal Church as of the Anglican Communion, based on careful study of the Holy Scriptures, and in light of tradition and reason are not of one mind, and Christians of good conscience disagree about some of these matters.

SOME REFLECTIONS

There are three areas of convergence that may be helpful for the clergy of The Diocese of Washington to pray and think about as they respond to the District of Columbia's Marriage Equality Act. One area comes from the Shema found in Deuteronomy. Another can be found in the theology of Holy Baptism as this Church understands it. And the third is contained in the core of the Baptismal Covenant.

Jesus as a Jew knew full well the Shema and we know that teaching as contained in the second portion of the Summary of the Law: Love your neighbor as yourself. This commandment, and the admonition to love God with all your heart, soul and mind, are the two commandments that encapsulate all of the law and the teaching of the prophets. In each case the supremacy of love is transcendent. The late William Sloan Coffin once said: "God's love does not seek value, it creates it. It is not because we have value that we are loved, but because we are loved that we have value. Our value is a gift, not an achievement." Love from the Christian perspective is therefore a simple truth that should without difficulty transcend the discrimination that inhibits same-sex marriage.

Holy Baptism is one of the two central Sacraments of the Church, the other being the Holy Eucharist. In reading the first paragraph of "Concerning the Service" (p. 298 of *The Book of Common Prayer*) one finds: "Holy Baptism is full initiation by water and the Holy Spirit into Christ's Body the Church. The bond which God establishes in Baptism is indissoluble." These are powerful words. For me they are a simple reminder that the Holy Spirit literally pervades the entire life of the Church, and that if one is fully initiated into the Body of Christ, the Church, then one has full access to all the sacraments of the Church, including marriage, ordination and consecration. Through the grace of Holy Baptism, there are no second class members of the Body of Christ, and certainly no outcasts. We are of equal value in the eyes of God, and any one of us may be called by the Holy Spirit into holy relationships as well as Holy Orders.

The Baptismal Covenant (p. 304 of *The Book of Common Prayer*) is contained within the rite of Holy Baptism. It is a unique document in the life of the Episcopal Church. There may be one or two other Provinces within the Anglican Communion that possess such a covenant, but ours is unique in what it says about the way in which we will live into our covenant with God and God's people. In addition to affirming our belief in core doctrinal elements of the Christian faith, and promising to continue in essential spiritual practices such as the breaking of the bread and the prayers, we promise to proclaim by word and example the Good News of God in Christ, and

commit ourselves to seeking and serving Christ in all persons. We also promise “to strive for justice and peace among all people respecting the dignity of every human being.”

I interpret these words in a way that compels me to offer the sacraments of the Church to anyone who has been baptized as a full member in the Body of Christ and who has continued, in faith, to recite and affirm the Baptismal Covenant.

BISHOP'S PASTORAL DIRECTION REGARDING THE DISTRICT OF COLUMBIA'S MARRIAGE EQUALITY ACT

As the Bishop of the Diocese of Washington it is important that I put forward guidelines for clergy of the diocese to follow now that the District's Marriage Equality Act is law. I do so based on my interpretation of General Convention Resolution CO56, which states that “bishops, particularly in those dioceses within civil jurisdictions where same gender marriage, civil unions, or domestic partnerships are legal, may provide generous pastoral response to meet the needs of members of this Church.” I hope that these pastoral guidelines will be helpful to the clergy that I serve as bishop. In the matter of how to engage or not engage in performing, witnessing and blessing same-sex marriages within the District, I respect the pastoral judgment and decisions of the clergy under my pastoral oversight.

- 1) No priest of this diocese, canonically resident or licensed in accordance with the canons of The Episcopal Church shall be required to act as a licensed agent of the District of Columbia in marrying persons of the same gender; neither shall they be required to bless such civil marriages.
- 2) Any priest from the diocese, canonically resident or licensed, who has been asked to marry same gender couples according to the Marriage Equality Act must: a) have a valid license from the District government; b) have the support of the vestry if the marriage is to occur in the congregation they serve as rector, assistant, supply priest, priest-in-charge or interim or if in another Episcopal congregation in the District of Columbia, the permission of that rector and vestry; c) notify the bishop at least 30 days prior to the marriage when and where it will take place; d) comply with all the requirements that pertain to heterosexual marriage including those relevant to previous marriages that have ended in divorce. All guidelines for Holy Matrimony currently in effect in the diocese shall be applicable to those persons contemplating civil same-gender marriage within the District. (Marriage guidelines are available at www.edow.org/marriage.)
- 3) Priests who serve congregations in the four counties of Maryland may marry persons in the District who are residents in the State of Maryland and who are active members of their congregations. They may marry within the District, provided that the couple has a valid DC marriage license and the priest is licensed in the District. All such marriages involving clergy who serve congregations in Maryland and who are entering the District must have the permission of the Bishop of Washington. If the marriage is to occur in an Episcopal congregation within the District, the rector and vestry of that church must give their permission for the use of the church.

- 4) Episcopal priests from outside the Diocese of Washington are not permitted to enter the diocese to perform, witness and bless same-gender marriages unless they are from a State and diocese that permits same gender marriage.
- 5) No priest from the Diocese of Washington will be permitted to travel outside of the diocese to perform witness and bless a same-gender marriage in another diocese where such marriage is legal without the written permission of the bishop of that diocese. Priests from the Diocese of Washington who have received permission must also notify the Bishop of Washington of their intent.
- 6) Persons who reside in other dioceses may not enter the Diocese of Washington to have a same-gender marriage performed, witnessed and blessed by a priest of this diocese or a priest from the diocese in which they reside unless that state legally permits same-gender marriage, and the diocese within that state also permits its clergy to perform, witness and bless same-gender marriages.
- 7) In the Diocese of Washington, deacons are not permitted to witness and bless marriages and are also prohibited from performing, witnessing and blessing same-gender marriages under the Marriage equality Act of the District of Columbia.

3/10/10 Addendum to Bishop's Pastoral Direction Regarding The District of Columbia's
Marriage Equality Act

- 8) Couples residing outside the geographic boundaries of the Diocese of Washington and seeking civil same-gender marriages in the District of Columbia officiated by Episcopal clergy of this diocese must be active members of a congregation in the Diocese of Washington for a minimum of one year.