A response: 
An alternative reading of BCP

Matthew Anstey¹

On the Interpretation of BCP

I am grateful for Michael’s detailed study of the BCP and more broadly on our Constitution and formularies. With respect to his ‘commentary’ on the ‘the doctrine of marriage arising from the BCP’, I am in broad agreement with all of his points except point 5, where Michael proposes that the endorsement of heterosexual marriage in the BCP entails the rejection of same-sex marriage. Michael’s argument can thus be stated in this way: the BCP endorses heterosexual marriage only.

But does in fact the affirmation of heterosexual marriage in the BCP entail the prohibition of same-sex marriage? I would argue that it does not, as I do also in my chapter on ‘The Case for Same-Sex Marriage’. The affirmation of one does not warrant the negation of the other. That is, I argue instead that the BCP endorses only heterosexual marriage.

I put forward here four interrelated arguments:

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1. Given that homosexual marriage was not a legal option at the time, and that the very possibility of a doctrine of same-sex marriage was not in the thoughts of the church at the time, the BCP doctrine of marriage should be taken as pertaining only to ‘the BCP doctrine of heterosexual marriage’. There is no evidence that same-sex marriage was under consideration in the BCP liturgy.

2. Accordingly, the restriction in the liturgy, on which Michael’s point 5 is based, namely, ‘For be ye well assured, that so many as are coupled together otherwise than God’s Word doth allow are not joined together by God; neither is their Matrimony lawful’ pertains only to heterosexual marriage. That is, same-sex couples cannot be joined together in heterosexual marriage. We could indeed state that the same prohibition should be operative for same-sex marriage, namely, that opposite sex couples cannot be joined together in same-sex marriage.

3. Michael argues this prohibition rules out same-sex marriage because it only allows what ‘God’s Word doth allow’. However, those affirming same-sex marriage believe such is allowed by God’s word, as argued in a number of essays in this book.

4. The liturgical location of the paragraph containing ‘coupled together otherwise’ is in the priest’s address to the specific couple being married, and has in its intent that this (heterosexual) marriage is legitimate. It is worth quoting at length:

And also, speaking unto the persons that shall be married, he shall say,

I REQUIRE and charge you both, as ye will answer at the dreadful day
of judgement, when the secrets of all hearts shall be disclosed, that if either of you know any impediment, why ye may not be lawfully joined together in Matrimony, ye do now confess it. For be ye well assured, that so many as are coupled together otherwise than God’s Word doth allow are not joined together by God; neither is their Matrimony lawful.

At which day of Marriage, if any man do allege and declare any impediment, why they may not be coupled together in Matrimony, by God’s law, or the laws of this Realm; and will be bound, and sufficient sureties with him, to the parties; or else put in a caution (to the full value of such charges as the persons to be married do thereby sustain) to prove his allegation: then the solemnization must be deferred, until such time as the truth be tried.

Again, this restriction should not be read as pertaining to all forms of coupling, because the liturgical (and legal no less) intent is to ensure that this couple can be legally married and in accord with Scripture (that is, not siblings, not already married, and so forth).

Thus for these reasons, I submit that the BCP supports the doctrine of heterosexual marriage and that its rationale, Scriptural warrant, and liturgical forms are written to this end. But its scope does not extend to same-sex marriage. This was neither intended nor even imagined as a possibility.

To put it succinctly, Michael argues that BCP endorses heterosexual marriage only but I argue that BCP endorses only heterosexual marriage.

On the Canonical Options

Again, I agree with not only much of Michael’s interpretation of BCP, but also with much of his account the legal processes necessary to instigate changes, notwithstanding future clarifications.
our church might receive from the Church Law Commission and/or the Appellate Tribunal on these matters.

I wish to present this however in a different manner to Michael, by distinguishing what I believe are the three most plausible and possible (and theologically defensible) forms of change for us to consider. I propose to distinguish these through using three distinct verbal phrases (and their concomitant liturgical expressions and legal statuses), namely the blessing of the relationship, the recognition of the covenental relationship, and the solemnisation of the marriage.

Again, in agreement with Michael, each of these three options would require agreement by Synod that each is ‘allowed by God’s word’.

Let me now explain each option.

1. **The blessing by the ACA of the relationship** of a same-sex couple married under law

   In this option, a General Synod Canon would institute a liturgy for the blessing of a same-sex couple already married under state law.

   This option offers a crucial difference to the next two options from a procedural perspective: if the Canon authorises blessing of a same-sex relationship in a manner that does not entail that it is blessing it as a marriage (or, that it states it explicitly that it is not blessing the relationship as a marriage), General Synod could pass such a Canon without requiring Constitutional change.

2. **The recognition by the ACA of the covenental union** of a same-sex couple married under law

   In this option, the couple would, as in the first option, need to be married already under state law. They could then seek liturgical
recognition of their union before God and God’s people, if such were to be provided for by the ACA. Such an approach is common in Europe, where it goes something like this: every married couple must be and can only be married by the State. Christian couples can thereafter (and this can be years later) have their union recognised in a church in a ceremony. This ceremony has no legal status but provides for Christians a public Christian rite for the recognition of the relationship before God.

This second option for the ACA however would be a variation on the European one, in that ministers could still solemnise heterosexual marriages. (And furthermore, Synod could also decide to cease its solemnisation of heterosexual marriages altogether and thus follow the European model fully.)

According to Michael’s analysis, this option would require Constitutional change as per section 67(1)(c). It might be the case however that legal advice determines that this second option could be achieved as per the first option.

3. **The solemnisation by the ACA of the marriage** of a same-sex couple

In this option, the couple would be married under state law through the solemnisation of their marriage by an authorised minister of the Anglican Church of Australia. So it would be legally identical to our current role in marrying couples according the rites of the Anglican Church of Australia, as Australian law only has one type of marriage, which is between two people.

That would not preclude however the preparation of a liturgy for the solemnisation of same-sex marriage, different to that for heterosexual marriage, with distinctive Scriptural texts, prefaces and so forth for this particular form of marriage. Further consideration of the sacramental nature of same-sex marriage
would need to be undertaken (as this is not discussed at all in this set of essays).

According to Michael’s analysis, this would require Constitutional change as per section 67(1)(c).