When the Present Became Future: The Ambiguity behind the Consent in the Marriage Rite of the 1662 *Book of Common Prayer*

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ABSTRACT

In a preparatory essay for the International Anglican Liturgical Consultation 2011, on the topic of marriage, Thomas Cooper questioned the long-held view that the question of consent in the Prayer Book tradition was derived from the older betrothal vow. Arguing from the Latin of the Sarum Use, '*Volo*', he argued that 'Will you ..?' and 'I will' reflects the Old English present tense and is part of the marriage vow. This article questions Cooper's argument, and instead argues that the use of 'will' as a future tense already in Middle English and used in betrothals pre-dates the Latin text. As a result, the separation of the consent (understood as an immediate future intention) from the qvow as in the 1979 American *Book of Common Prayer* and the Church of England *Common Worship 2000* is entirely justified.

KEYWORDS: betrothal, *de presenti*, *de futuro*, marriage, vow

In his famed commentary on the 1662 *Book of Common Prayer*, Charles Wheatley wrote concerning the question of consent to the groom and bride:

> This solemn Declaration of the Parties Consent seems to be the Remains of the old Form of *Espousals*, which was different and distinct from the Office of *Marriage,* and which was often perform'd some Weeks, or Months, or perhaps Years before; … Accordingly the declaration is made in the *Future* Tense, by which Espousals us'd to be made, whereas the

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Stipulation runs in the *Present* Tense, which is necessary to make and confirm a Marriage.[2]

Though less informative on the history, Laurence Clarke in his commentary of 1737 drew attention to the different tenses of the consent and the vow: 'Now follows the Matrimonial Contract in Words of the *present Time,* which being no more than what was promised just before in the *future Tense*, or Words of *future Time*, no further Notice needs to be taken of it.'[3]

In this distinction between the future and present tense and the identification of the consent as a remnant of betrothal, Wheatley has been followed by a good many commentators and scholars.

In a preparatory essay for the International Anglican Liturgical Consultation held at Canterbury in 2011, Thomas Cooper questioned this long cherished explanation.[4] He correctly pointed out that the underlying Latin of the Sarum Manual reads '*Vis hanc feminam?*' with the answer '*Volo*'. The tense is present, with the meaning 'I wish (now)' or 'I am willing'. Citing the Merriam-Webster *Dictionary of English Usage* (1994) and C.T. Onions's *An Advanced English Syntax* (1911) Cooper then argued that 'Old English had no future tense, expressing the future by using the present: for example, "I'm getting married in the morning." Only later was "to will" used as an auxiliary to form the future tense.'[5] Cooper thus argued that in the Prayer Book from its 1549 recension onwards, the question of consent was present tense, and belonged with the vows that were placed immediately after. Some Anglican Provinces, accepting the Wheatley interpretation, have separated the consent from the vow in revisions of the marriage service – for example: the Episcopal Church of the United States of America (ECUSA) 1979; West Indies 1995; New Zealand 1989 second order, and optional separation in the first and third orders; Church of

2. Charles Wheatley, *A Rational Illustration of the Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the Use of the Church of England* … (London, 3rd edn, 1720), p. 402.

3. Laurence Clarke, *A Compleat Exposition of the Book of Common-Prayer and Administration of the Lord's Supper, According to the Use of the Church of England*… (London, 1737), p. 190.

4. Thomas Cooper, '"Wilt thou have this woman?" – Asking God's Blessing on Consenting Adults', in Kenneth W. Stevenson (ed.), *Anglican Marriage Rites: A Symposium* (Joint Liturgical Studies 71; Norwich: Hymns Ancient and Modern, 2011).

5. C.T. Onions, *An Advanced English Syntax* (London: Kegan Paul, 1911), pp. 107-12, 135-38, quoted in Cooper, 'Wilt thou have this woman?', p. 28.

England Common Worship 2000. On the basis of his grammatical argument, Cooper persuaded the Church in Wales to keep the consent and vow together in its revised marriage rite, and by implication, suggested that those Provinces that had separated them had done so through misinterpretation of the meaning of 'I will'.

While Cooper's statements are correct in the broadest dictionary sense, they veil and obscure a much more complex background. To begin with, the Old English data is more ambiguous than Cooper represents it. The use of Old English 'willen' as an auxiliary verb expressing mere futurity – a usage that would become common in later centuries – is attested as early as the late ninth century. Ælfred, for instance, uses the first person 'wille' in this manner when translating a question in Boethius, *De Consol. Philos.*: 'Hwæt wille we cweðan be þinum twam sunum?' ('What will we say to your two sons?').[6] Here, 'willen' lacks any suggestion of volition. Parallel examples of this phenomenon can be seen in the use of the second and third person forms of 'willen' from the same period. Consider, for instance, the translation of Ps. 73.20 (74.21) in the Paris Psalter (c. 1050): 'He wyle naman þinne neode herian' ('The needy will praise your name').[7] Even more examples of this usage obtain in Middle English texts.[8] In Chaucer we find both 'shall' and 'will' used to express futurity.[9] Thus, if for the highly educated '*volo*' rendered as 'I will' may have intended a present tense, *in practice* that is not how many Middle English speakers actually understood the vernacular 'I will'. Leslie Arnovick concluded that during the fifteenth century 'shall' and 'will' underwent reanalysis and emerged with the syntactic properties of the Modern English modals, and 'will' is used for the notion of pure futurity.[10]

6.   Ælfred Boethius, *De Consol. Philos* X, in Samuel Fox, *King Alfred's Anglo-Saxon Version of Boethius De Consulatione Philosophiae* (London: H.G. Bohn, 1864), p. 28. My thanks to Dr Hugo Mendez for these references and advice on the change from Old English to Middle English, to modern English.

7.   George P. Krapp, *The Paris Psalter and the Meters of Boethius* (New York: Columbia University Press, 1932), p. 35.

8.   See, for example, first person usage in: W. Heuser, 'With an O and an I', *Anglia* 27 (1904), p. 287; Thomas Hampton to Thomas Stonor, 31 August 1462 in Christine Carpenter (ed.), *Kingsford's Stonor Letters & Papers 1290–1483* (Cambridge: Cambridge University Press, 1996), pp. 59-60.

9.   Minako Nakayasu, 'Towards a Pragmatic Analysis of Modals *Shall* and *Will* in Chaucer's Language', *Studia Anglica Posnaniensa* 46.4 (2011), pp. 73-96.

10.   Leslie K. Arnovick, *The Development of Future Constructions in English: The Pragmatics of Modal and Temporal Will and Shall in Middle English* (New York: Peter Lang, 1990).

Moreover, all vows and undertakings in Western marriage rites represent an addition to the older liturgical foci, and are the result of the requirements of canon law attempting to make clear both a binding betrothal and an indissoluble marriage. In other words, when and where vows are found, they were originally extra-liturgical, and reiterated in public what traditionally were semi-private domestic undertakings. This becomes apparent in the fact that betrothals and marriages without any recourse to the church remained common in England until the Hardwicke Act of 1754. The formulae used must have varied as did the couples. In medieval disputes that were appealed to the Archdeacon's courts (the arbiter of marriage disputes) the scribes writing in Latin usually had to use '*volo*' as an auxiliary to express what one or other of the parties claimed to have intended when in the vernacular they had said 'I will'. Eric Carlson has aptly remarked, 'The word volo ("I wish", "I want") was a particular problem and arguments about its implications became one of the great judicial indoor blood sports of the thirteenth and fourteenth centuries.'[11]

That betrothal/marriage vows represent a later development in marriage liturgy is fairly well established. As Molin and Mutembe point out, the inability of the Church to know whether consent was mutual, or whether there may be some existing impediment to the marriage, the calling of banns and the public request for consent became requirements, signaled by rubrics.[12]

One of the earliest Anglo-Saxon rituals, Durham Cathedral Library A.IV.19, copied in southern England sometime between 890 and 930 from a continental model, has provision for a nuptial mass and the blessing of the bed chamber. The text was added to at Chester-le-Street by Aldred and other scribes, and was probably in use until the late eleventh century, but no vows were ever added, strongly indicating that at the time of the manuscript's composition and expansion, vows still formed no part of the ecclesiastical ceremony.[13] The contemporary Anglo-Saxon laws of Edmund, known as the Kentish betrothal and dated between 975–1030 give what is clearly a secular/domestic betrothal. The proper secular custom, it says, is that the bridegroom

11. Eric Carlson, *Marriage and the English Reformation* (Oxford: Blackwell, 1994), p. 20.

12. Jean-Baptiste Molin and Protais Mutembe, *Le Rituel du Mariage en France du XII au XVI Siècle, Théologie Historique*, 26 (Paris: Beauchesne, 1974).

13. T.J. Brown (ed.), *The Durham Ritual: A Southern English Collectar of the Tenth century with Northumbrian Additions. Durham Cathedral Library A.IV.19* (Copenhagen: Rosenkilde and Bagger, 1969).

must first promise and pledge to those who are the bride's advocates, that he desires her in such a way that he will maintain her according to God's laws as a man should maintain his wife. If this and other undertakings are secured, and agreement is reached, then the kinsmen may set about betrothing the woman as a wife and in lawful matrimony. It noted that 'At the marriage there should by rights be a mass-priest, who shall unite them together with God's blessing in all prosperity'.[14] This is good indication that many continued to make no recourse to the Church even to have their betrothal and marriage blessed. In the sixteenth-century post-Reformation Church of England, Richard Greenham, the incumbent of Dry Drayton, offered a 'domestic' form of betrothal that fellow incumbents might use. After inquiring whether either party was already precontracted, he advised the cleric to say:

> I charge you, as by authoritie from Jesus Christ, in whom you looke to bee saved, that having the consent of your parents, and received these precepts, that (I say) ye labour to grow in knowledge, and in the feare of God. And now as in the sight of God (without all such levitie as of others used) you must make before the Lord a contract, which is farre more than a promise: and that on this manner their hands being joined. I R. doe promise to thee F. that I will be thine husband, which I will confirme by publike marriage, in pledge whereof I give thee mine hand. In like manner doth the woman to the man. Then after prayer the parties are dismissed.[15]

William Gouge in his *Of Domestical Duties*, 1622 offered the following form for a public betrothal:

> First the man taking the woman by the hand to say: I A take thee B to my espoused wife, and do faithfully promise to marry thee in time meet and convenient. And then the woman again taking the man by the hand to say: I B take thee A to be my espoused husband and do faithfully promise to yield to be married to thee in time meet and convenient.[16]

Although both represent the era of Modern English, it is noteworthy that in Greenham's example, a promise that 'I will be thine' is unambiguously future tense – 'I will confirme by publike marriage' – and

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14.   *Essays in Anglo-Saxon Law* (London: Macmillan, 1876), pp. 171–73.

15.   Richard Greenham, 'A Treatise on a Contract before Marriage', in Kenneth Parker and Eric Carlson (eds.), *Practical Divinity: The Works and Life of Rev'd Richard Greenham* (St Andrews Studies in Reformation History; Aldershot: Ashgate, 1998), p. 338.

16.   Mary Abbott, *Life Cycles in England, 1560–1720: Cradle to Grave* (London: Routledge, 1996), p. 107.

Gouge's present tense 'I take thee' is a promise to marry in time 'meet and convenient', the future.

Greenham and Gouge encouraged what was normally a private domestic ritual to be undertaken in public. This concern was precisely why the betrothal and marriage pledge/vow came to be repeated in public at the Church door prior to the liturgical rites of Nuptial Mass and Blessing, and blessing of the bed chamber. According to Stevenson and Searle, this requirement seems to have been launched around 1072 at a provincial synod in the area of Rouen. This is ideally illustrated in a French marriage rite of the late fourteenth century from the Abbey of Barbeau. In the vernacular the bridegroom and bride are first asked by the priest: 'N, do you want to take (*Viex-tu penre*) M. who is here as your wife and spouse, if Holy Church agrees?'

If they both answer 'yes', the priest takes their right hands and asks them to repeat the following: 'M. I pledge (*fiancé*) that I will take you (*je te penrai*) as my wife and spouse within forty days if holy church agrees.'

This is clearly a future intention dependent upon there being no impediment to the marriage. At a later time – within 40 days and after the banns have been called – the marriage service takes place, and each party is asked a similar question to the betrothal: 'N, do you want (*viex-tu*) M as your wife and spouse, since Holy Church agrees'.[17]

An earlier missal, compiled in England at Bury St Edmunds c.1125 but used in Laon, France, has the following after a blessing of the ring: 'After this blessing has been pronounced, the man is asked by the priest whether he wishes to take this woman (*habere velit*), N, to be his lawful wife. The same question is posed to the woman.'[18]

This elucidates free consent, and in the twelfth century almost certainly is a public reiteration of the older private betrothal. This point was made by Kenneth Stevenson who Cooper seems to misrepresent. Stevenson wrote: 'And sometimes local rites include a short form of betrothal modelled on the rite of consent at the marriage itself, *reflecting older practice (betrothal at engagement) but falling in line with wider developments (public consent immediately before the service).*'[19]

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17.   Molin and Mutembe, *Le Rituel du Mariage*, p. 306.

18.   Mark Searle and Kenneth Stevenson, *Documents of the Marriage Liturgy* (Collegeville, MN: Liturgical Press, 1992), p. 150.

19.   Kenneth Stevenson, 'Marriage' in Paul Bradshaw (ed.), *The SCM Dictionary of Liturgy and Worship* (London: SCM Press, 2002), p. 300. My italics. Cooper, 'Wilt thou have this woman?', refers to this in note 19, but only to the first part of the sentence. See also Stevenson's comment in 'Cranmer's Marriage Vow: Its Place in

The Latin liturgical rites assume that the questions will be asked in the vernacular, but no vernacular formula is given, and it is anyone's guess whether the questions were always a literal translation of the Latin, or in the case of Barbeau, French approximations/extemporizations left to the individual priest. The same uncertainty would seem to be the case of the earliest occurrence of a vow in England which appears to be the twelfth-century Magdalen Pontifical. Having ascertained that a legitimate marriage may be contracted, the priest is instructed to ask the bridegroom, '*N. Vis hanc feminam*?' If he replies '*volo*', the same is asked of the bride. Taking place at the Church door, this again is a reiteration for the purposes of canon law of any private contract that had been already made. There is no way to determine what the vernacular might have been – whether a literal word-for-word translation, or simply the priest's rendition. Since by the twelfth century, 'will' and 'I will' were already in use to express the future, any such use of these, regardless of the Latin, was to introduce an ambiguity since it was also the language that many used at private betrothal. In the Sarum Manual although the priest is directed to ask the question *in lingua maternal sic*, usually only the Latin is given, and although in BL Add. 30506 the vernacular of the question is given, the increasingly ambiguous reply remains in Latin, '*volo*'. In the York Manual the question, although similar, is not quite the same. However, again, although the vernacular rendering is required, the vernacular is not in the manuscript versions, other than in the Cambridge University Library MS where a vernacular version is given on an inserted slip.[20] In the printed text of the York Manual of 1509 the vernacular reply is 'I wyll', but by this date it would have carried all the ambiguities of English use and meaning of this auxiliary verb.[21] By the fifteenth century a dynamic equivalent for '*volo*' would be 'I do' rather than 'I will'.

The ambiguity of 'will' and '*volo*' is illustrated in the diocesan records that relate to disputes over whether a private agreement was a present undertaking or a future promise. Vows began to preface or be

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(F'note continued)

the Tradition', in Paul Ayris and David Selwyn (eds.), *Thomas Cranmer: Churchman and Scholar* (Woodbridge: Boydell Press, 1993), pp. 189-98 (189) where consent is derived from the old form of betrothal.

20.   *Manuale et processionale ad usum insignis ecclesiae Eboracensis* (Surtees Society 63; Durham: Andrews, 1875), p. 26.

21.   York Manual, BL, ESTC S108611. Accessed on Early English Books Online, 6 January 2015.

embedded in the marriage rites as a result of the requirements of the canon lawyers and the need for the Church to be able to determine whether a marriage contract was valid or not. According to Gratian's *Decretum*, contracting marriage required two steps. Betrothal, or spon-salia, resulted from the parties exchanging words of consent. However, marriage itself was not perfected until consummation. Both were necessary.[22] For Peter Lombard, only the mutual consent was needed (probably to safeguard the validity of the marriage of Joseph and Mary). However, Lombard included the tense of the words:

> The efficient cause of marriage is consent, and not just any kind, but one expressed in words, and not of future, but of present effect. For if they consent as to the future, saying: I shall/will take you as my husband, and I you as my wife (*Accipiam te in virum, et ego te in uxorem*) this is not a consent which effects marriage … if there is no coercion or fraud, that obligation of words by which they consent, saying I take you as my husband, and I you as my wife (*Accipio te in virum, et ego te in uxorem*) makes a marriage.[23]

If a future promise was made, and intercourse followed, that made the marriage. Thus, marriage for Lombard was either an exchange of consent in the present tense, or a future tense followed by sexual intercourse.

Pope Alexander III (1159-81) followed Lombard's view, and vows were either *verba de presenti* or *verba de futuro*.[24] The words constituting the present, according to John Myrc's *Instructions for Parish Priests*, c.1380, were:

> 'Here I take the to my wedded wyf, And there-to I plyghte þe my trowþe'.[25]

22. Anders Winroth, 'Marital Consent in Gratian's *Decretum*', in Kathleen Cushing and Martin Brett (eds.), *Readers, Texts and Compilers in the Earlier Middle Ages: Studies in Medieval Canon Law in Honour of Linda Fowler-Magerl* (Aldershot: Ashgate, 2009), pp. 111–21.

23. Peter Lombard, *The Sentences Book 4: On the Doctrine of Signs* (trans. Giulio Silano; Toronto: Pontifical Institute of Medieval Studies, 2010), p. 161 (Book 4, Dis. 27, ch. 3).

24. See also Anne J. Duggan, 'The Effect of Alexander III's "Rules on the Formation of Marriage" in Angevin England', in C.P. Lewis (ed.), *Anglo-Norman Studies: XXXIII. Proceedings of the Battle Conference 2010* (Woodbridge: Boydell and Brewer, 2011), pp. 1-22.

25. Geoffrey F. Bryant and Vivien M. Hunter, *'How thow schalt thy paresche preche': John Myrc's Instructions for Parish Priests* (Barton-on-Humber: Workers Educational Association, 1999), p. 56.

In spite of such clarification, the fact that marriage continued to be a private domestic matter meant that the Church often had to preside over disputes where the nature of the verbal contract/undertaking were disputed. Michael Sheehan studied marriage litigation in the diocese of Ely between 1374 and 1382 when Thomas Arundal was bishop.[26] Sheehan noted that in some cases it is difficult to decide to what type of contract a form of words belongs. In the Lovechild case,[27] Tilla Taillor's version of a *de presenti* contract was explicit:

> *Ego accipio te in uxorem meam et Ego accipio te in virum meum.*

John Lovechild's information is less clear: '*Johannes fatetur quod ipse dixit eidem Tile ista verba Volo te habere in uxorem et quod ipsa consenti't.* Sheehan asked whether '*volo*' in John's phrase meant to imply a promise to marry in the future, or (as Sheehan thought more likely) in the present. On the other hand there is ambiguity in the clandestine contract of John Saffrey and Alice Molt.[28] The words are '*Volo te habere in virum*' and '*Ego volo te habere in uxorum*'. Here Sheehan says that it is unclear whether this was a promise to marry or a *de presenti* plighting of troth. The Latin was trying to express what was said in Middle English. Sheehan notes that in many cases the present or future meaning of '*volo*' is made clear from the context. In the Borwelle and Bradenho cases, '*volo habere*' was used but in both cases the contract depended on parental agreement and so was deemed to be a betrothal *de futuro* and not marriage *de presenti*.[29] The irony is that '*volo*' itself was being used as an auxiliary to express the ambiguous Middle English 'will'. Sheehan concluded that this uncertainty 'must have been fairly widespread where unsophisticated men and women, moved by who knows what desires and pressures, tried to establish a relationship within the categories and the procedures demanded by a custom which in part was the debris of a culture that no longer existed and in part was a ritual statement of a new and vastly different view of marriage'.[30]

R.H. Helmholz's broader study of medieval marriage legislation from the thirteenth century to 1500 paints a similar confusing picture. Whereas canon lawyers regarded the contract *de presenti* to establish a

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26.   In James K. Farge and Michael M. Sheehan (eds.), *Marriage, Family and Law in Medieval Europe: Collected Studies* (Toronto: University of Toronto Press, 1997).

27.   Farge and Sheehan, *Marriage, Family and Law*, pp. 56-57.

28.   Farge and Sheehan, *Marriage, Family and Law*, p. 57

29.   Farge and Sheehan, *Marriage, Family and Law*, pp. 57-58.

30.   Farge and Sheehan, *Marriage, Family and Law*, p. 57.

marriage, many laymen regarded it as a contract to marry in the future. He noted that although usually canonists regarded the words '*volo habere te*' normally to mean *de presenti*, in a York suit of 1442 it was held that the affirmative answer to the question, 'Will you have me as your husband or wife?' and where both had said '*volo*', did not create an enforceable marriage.[31] He concluded that where the common custom of speech in a region showed that no present contract was intended, the canonists indicated that the phrase '*volo te habere*' would not bind the couple.[32] In other words, for many laypeople '*I will*' implied a future, and was thus betrothal, not marriage, and when rendered in Latin as '*volo te habere*', it rendered an English future tense. This seems to be the view of Henry Swinburne, a judge of the Prerogative Court of the Archbishop of York, who lived 1551–1624. He wrote that the words 'I will take thee to my Wife/Husband' do not make the couple husband and wife, whereas 'I do take thee to my wife/husband' are binding.[33] Whatever Cranmer's intention in 1549, by using 'I will' he had continued the ambiguity caused by the gap between the intention of the Latin liturgical antecedent, and popular English usage and in private betrothals.

Thomas Cooper was concerned to demonstrate that the separation of the declaration of consent from the exchange of vows by the placement of the Liturgy of the Word between them was based on a misunderstanding of the older Prayer Books form as explained by commentators such as Wheatley onwards, the meaning of which were determined by the Latin liturgical antecedents. From a strict funda-mentalist lexicon approach to the text this may sound correct, but contextually it is simply inaccurate, and conceals a far more complex background. 'I will' as future tense predates the consent and vows of the liturgical rites, and as Stevenson implied, the consent was modeled on the old betrothal forms. It would seem therefore that a change based on a broader contextual argument, treating the question 'Will you?' as a future representing the old betrothal is perfectly justifiable. The consent had its roots in the old domestic betrothal and the Middle English use of 'I will' to express the future.

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31.   R.H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge Studies in English Legal History; Cambridge: Cambridge University Press, 1974), pp. 39-40.

32.   Helmholz, *Marriage Litigation*, p. 38.

33.   Henry Swinburne, *Treatise of Spousals or Matrimonial Contracts…* (London: 1686), p. 12.