



Relationship between the Church of England & the State



*Adapted by The Rev. John Roberts with assistance from Luke Childs
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Summary

The Church of England is an Established church, meaning it has a unique and privileged relationship with the State of the United Kingdom not enjoyed by other churches or religions. However, in recent centuries this relationship has been gradually and considerably diminished, allowing for a level of religious freedom and toleration in the United Kingdom that would have been unimaginable 500 years ago. As it stands today, the Church partners with the State for ceremonial purposes, such as for the coronation of a new monarch and providing clergy to officiate public services & memorials. However, the Church does not function as a mouthpiece of the State, but instead has had occasions where members of the clergy have been severely critical of government policy.

At present, the monarch's role in the Church of England is largely ceremonial in a manner that parallels a similar shift that has occurred with the crown's political authority in the State. However, the requirements for succession (of a new King/Queen) still require that the monarch (though not their spouse) be in communion with the Church of England. And the monarch continues to be known as the "Supreme Governor of the Church of England" and the "Defender of the Faith", although Prince Charles has stated in the past that, were he to ascend to the throne, he would rather be seen as simply 'Defender of Faith", meaning defender of the freedom to practice any faith.

In practice, the power of Supreme Governor of the Church and Defender of the Faith is now largely held by Parliament and the Church's General Synod. But for the past century, the Parliament has ceded the right of legislative initiative to the Synod in regard to matters wholly internal to the Church. Meanwhile, the Church's forty-two Diocesan Bishops are eligible to sit on the House of Lords, which is the second chamber of the U.K. Parliament (think the U.S. Senate, but unelected). This makes the U.K. Parliament the only national legislature in Europe which has explicit religious representation, but the number of seats actually allotted for Bishops at any given time is now limited to 26, which only amounts to 4% of the House (down from almost 80% in the 13th Century).

At the apex of the executive branch is the Prime Minister, who maintains a special relationship to the Archbishop of Canterbury not had by other religious leaders, and meets with the Archbishop twice a year. And in a vacancy with the Archbishop of Canterbury, the Prime Minister nominates the chair of the Church's Crown Nominations Commission.

Technically the monarch still appoints all Diocesan bishops, as well as more than half of the deans (priests in charge of cathedrals) and other incumbents (priests in charge of parishes), but the Church now has considerable influence on this through the government's executive branch, whose ministers make recommendations to the monarch on all such appointments. There are also particular places in the Church of England exempt from the jurisdiction of the bishop of the (geographical) diocese where it is located, where instead the monarch instead has visitatorial jurisdiction. These "Royal Peculiars" include Westminster Abbey and St George's Chapel, Windsor, and the Chapels Royal at St James's Palace, the Tower of London and Hampton Court.

Today

An Established Church

The Church of England is the ‘Established Church’ of the United Kingdom, meaning that the State has for its own purposes distinguished it from other Churches and has conceded to it a privileged position. That being said, “The Church has never been ‘established’ by Act of Parliament. Establishment has been a growth and not a creation, and dates from an age when Church and nation were indistinguishable one from another”.¹

In Ceremonial Partnership with the State

It is the Church of England’s commitment to a national mission in partnership with the state which results in the Church of England’s involvement with public affairs in a variety of ways. Notably, it leads not only in the grand ceremonial of anointing new monarchs at coronations, but also in a whole range of occasions responding to significant events in the nation’s life (see footnote ² for examples)

In Social Partnership with the State

But the Church of England does not regard its public involvement as simply an involvement in the ceremonial life of the nation: it also shoulders significant and effortful social functions. For example, approximately one quarter of all primary schools in England are Church of England schools educating about one fifth of the school population.³

Not A Mouthpiece of the State

At the same time, mission to the nation is not the same as operating as an agency of the state or of the government of the day. Anglican clergy may lead daily prayers in the legislature and offer public prayers for the head of state and members of the government, but they do not see themselves as the mouthpiece of the government. Indeed, on occasion members of the clergy have been severely critical of government policy.⁴

¹ (*Cecil Report, Vol 2: 171*)

² Whereas the bishop of London leads the national high profile annual commemoration of Remembrance Day at the Whitehall Cenotaph, Anglican clergy officiate at local memorials and public services throughout the land. St Paul’s Cathedral and Westminster Abbey are the settings for state events which mark the great moments of the nation’s passage through the world. The relationship with the monarchy where the sovereign, for example, normally opens the Church of England’s Synod, reflects the national roles of both institutions.

³ In none of these cases does it operate exclusively: there are other religious schools in the public system, for example Roman Catholic, Jewish and Muslim.

⁴ Bishop Bell of Chichester questioned the ethics of indiscriminate aerial bombing at the height of the desperate conflict of World War II and in the teeth of sentiment which equated patriotism with silent acquiescence. Archbishop Runcie refused to be triumphalist at the national service for the Falklands War, and risk appearing to collude thereby in any government wish to expect such an occasion to deliver political advantage. The Church of England’s Faith in the City initiative was regarded as deeply critical of a government’s urban policies. Moreover, rather than resting on criticism, by means of the ensuing

From Then to Now

Whereas initially state and Church were linked in a joint enterprise of governance based on a theory of religious uniformity, over time the state became dominant both in relieving the effects of the harshest civil disabilities imposed for nonconformity and in removing the hegemonic position of the Church in the areas of interpersonal relations and social control for which it had been regarded as chiefly responsible. However, the current arrangements span something more than a merely vestigial residue of the former partnership, especially in the relationship with the sovereign as Supreme Governor of the Church and in episcopal membership of the House of Lords.

The Current Arrangement

The Monarchy

- Constitutionally the UK's sovereign is a Parliamentary monarch⁵
- Title: Although it is not formally one of the sovereign's titles, the sovereign is - as described in the preface to the Thirty-Nine Articles - "Supreme Governor" of the Church of England and, when doing homage, new bishops are required to acknowledge that position. In addition, the surviving part of the Elizabethan Act of Supremacy 1558 (read with Canon A 7) makes it clear that the sovereign has supreme authority 'over all persons in all causes, ecclesiastical as well as civil'. The monarch is also styled 'Defender of the Faith' (Fidei defensor), a title originally bestowed by a Pope on Henry VIII but subsequently appropriated permanently by the donee in circumstances very different from those of the original grant.
 - In contrast to the era of the English Reformation (16th Century) when the sovereign would be the chair of debate among the bishops,⁶ and would have the final say in matters ecclesiastical for the state, today, the Queen's role as Supreme Governor/Fidei defensor is largely ceremonial. Now that power is largely held by Parliament and the Church's General Synod; Her Majesty does little of real influence other than the perfunctory giving of Royal Assent.
 - Notably, Prince Charles has in the past stated that, were he to ascend to the throne, he would rather be seen as simply 'Defender of Faith' (not of THE faith), meaning defender of the freedom to practice any faith.⁷
- Succession: the present rules⁸ ensure the continuation of a Protestant succession to the exclusion particularly of Roman Catholic claimants. Thus, in addition to the monarch being qualified by primogeniture descent from a former Electress of Hanover, he or she is required to 'join in communion with the Church of England as by law established'.⁹ These provisions are

Church Urban Fund it saw to it that money was invested in projects to help ameliorate the conditions the initiative had observed.

⁵ Parliament prescribes the monarch's relations with the Church of England and the rules of succession to the throne.

⁶ This stemmed from the 'Divine Right of Kings', the idea that a state sovereign is appointed and anointed by God, therefore their rule could not be challenged by any earthly authority.

⁷ <https://www.telegraph.co.uk/news/uknews/theroyalfamily/3454271/Prince-Charles-to-be-known-as-Defender-of-Faith.html>

⁸ unchanged since the early eighteenth century and devised from the revolution of 1688

⁹ Prince Phillip famously 'converted' to the Church of England from his 'native' Greek Orthodoxy in order to marry the then Princess Elizabeth in 1947 before her ascent to the throne, so that she would not be barred. However, the

variously reflected in the oaths required of the sovereign on accession, which law requires be administered by either of the Archbishops or a bishop.¹⁰

The Legislature

The Church retains access to a unique method of legislating for its affairs. Although this still gives Parliament the last word, the Church has acquired the legislative initiative and in practice obtained autonomy over issues of worship and doctrine.¹¹

- Just as the monarchy is a Parliamentary monarchy, so for many purposes does the Church of England remain a Parliamentary church, though since 1974¹² it has had effective autonomy on those core matters,
 - Since 1919¹³ Parliament has given the unique right of legislative initiative to the Church of England Synod. In theory the right of initiative is not exclusive and there is no legal reason why legislation affecting the Church of England cannot be introduced by any member of either House under the normal procedures. In practice, however, Parliament has so far ceded the right of initiative on matters wholly internal to the Church of England.¹⁴
 - Since 1969, canons (church laws) are now made by the Church's General Synod. Canons fall to be approved by the sovereign without any Parliamentary procedure. However, on the basis that the sovereign does not act except on the advice of ministers, in practice canons need the approval of ministers, themselves accountable to Parliament.
- Bishops in the House of Lords (Don't know what the House of Lords is? See footnote ¹⁵)

requirement to be 'in communion with the Church of England' does not mean that the sovereign has necessarily to be a member of the Church of England itself. The first two Hanoverian monarchs were, of course, Lutherans. Rather, the requirement may be satisfied wherever a successor is a baptised and communicant member of Protestant churches 'which subscribe to the doctrine of the Holy Trinity, and who are in good standing in their own Church' (the combined effect of the Church of England's Admission to Holy Communion Measure 1972 and Canon B 15A). These provisions comprehend potentially most Protestant denominations (including, of course, the Church of Scotland) but not non-Trinitarians like Unitarians or the noneucharistic Quakers. Nonetheless, the present law still maintains disqualifications in respect of Roman Catholicism, although with the Succession to the Crown Act of 2013, the sovereign is now permitted to be married to a Roman Catholic, but one still has to be in communion with the Church of England to be King/Queen.

Notably, this 2013 act also changed a law dating back to 1772 that males would always have preference in succession, even if there were older females higher up in the royal pecking order.

¹⁰ From the Oath of Accession: "Will you to the utmost of your power maintain the laws of God, the true profession of the Gospel and the Protestant reformed religion established by law? And will you maintain and preserve inviolately the settlement of the Church of England and Ireland and the doctrine, worship, discipline and government thereof as by law established, within the Kingdoms of England and Ireland, the dominion of Wales, and the town of Berwick on Tweed, and the territories thereto belonging? And will you preserve unto the bishops and clergy of England and to the churches there committed to their charge, all such rights and privileges as by law do or shall appertain unto them or any of them?"
Response: "All this I promise to do."

¹¹ Whilst taxpayer support for its educational and chaplaincy work is substantial, it could not be said that the Church of England is especially or uniquely privileged by the state financially. Not since the first half of the nineteenth century has it received any state subvention not equally available to other denominations.

¹² With the Worship and Doctrine Measure

¹³ With the Church Assembly (Powers) Act 1919, known as the Enabling Act

¹⁴ What is in effect a convention has been established that the government will not itself seek to legislate in such areas other than under the 1919 Act procedure, or, in other words, without the Church of England's consent.

¹⁵ About the House of Lords: The House of Lords is the second chamber of the UK Parliament. Also known as the House of Peers, it is the upper house of Parliament. It is similar to the U.S. Senate, but unelected. Think the Senate, but unelected. Membership is granted by appointment or else by heredity or official function. It is independent from, and complements the

- 42 diocesan bishops are eligible to sit in the House of Lords as “Lords Spiritual” by ancient usage. Although, since 1847 the number actually permitted to sit at any one time has been limited to 26.¹⁶ In 2000, the episcopal membership constituted 4% of the House in 2000. This is in contrast to 1265 when the “Lords Spiritual” outnumbered the laypeople in the House of Lords by a ratio of 5 to 1.¹⁷
- Thus, the U.K. Parliament is the only national legislature in Europe which has explicit religious representation.

The Executive

All episcopal and many other senior church appointments are made by the Crown on the advice of ministers. The Church has nowadays more influence in Crown appointments, but ultimate Crown/ministerial control remains real.

- The constitutional relationship between the Church of England and the executive stems from the latter’s position as advisers, and consequently conduit, to the Crown. Accordingly, all Crown patronage is exercised on the advice of ministers. The Queen, advised by the Prime Minister, is at the apex of the system. It is partly in recognition of the Prime Minister’s role that the current Prime Minister normally meets with the Archbishop of Canterbury about twice a year.¹⁸
- Senior Church of England appointments
 - **Bishops** - The Crown appoints 43 diocesan bishops and 68 suffragan bishops.
 - **Deans** - The Crown appoints 28 of the 44 deans¹⁹
 - **Residentiary Canonries**²⁰ - Of the 160 about 30 appointments are in the hands of the Crown²¹
 - **Royal Peculiars** are places in the Church of England exempt from the jurisdiction of the bishop of the (geographical) diocese in which it is situated, but where instead the crown (as supreme Ordinary²²) has visitatorial jurisdiction. These include Westminster Abbey and St George’s Chapel, Windsor, and the Chapels Royal at St James’s Palace, the Tower of

work of the elected House of Commons. The Lords shares the task of making and shaping laws and checking and challenging the work of the government. Hereditary & honorary peers debate bills passed up from the House of Commons, either bouncing them back, or forwarding them for Royal Assent and codifying into Law. Like the House of Commons, it meets in the Palace of Westminster.

¹⁶ the number existing at the time of the legislation which that year created additional bishoprics. Of the 42 bishops, the archbishops of Canterbury and York and the bishops of London, Durham and Winchester have seats automatically. The remainder are admitted when vacancies occur in order of seniority of consecration.

¹⁷ In Tudor times before the Reformation, the Lords Spiritual - who included abbots and priors - actually outnumbered the much smaller lay peerage of the day. One calculation concerning the assembly summoned by Henry III in 1265 puts the spiritual peers outnumbering the lay by 5 to 1.

¹⁸ This relationship does not, of course, exclude contact with other religious leaders. However, that contact is less frequent and of a necessarily different character.

¹⁹ that is all except the deans of former “parish church” cathedrals, and the dean of the cathedral in Gibraltar.

²⁰ ‘Residentiary canons’ form the permanent salaried staff of a cathedral and are responsible for the maintenance of its services, fabric, etc. In contrast, a ‘non-residentiary canon’ in the Church of England (often ‘honorary canon’) is on who holds an unsalaried post, which may entail certain privileges and responsibilities. [Oxford Dictionary of the Christian Church]

²¹ ...shared roughly equally between the Lord Chancellor acting by himself and the Prime Minister advising the sovereign.

²² ‘Ordinary’ is a term referring to a bishop of a Diocese.

London and Hampton Court.²³ In the case of Royal Peculiars, ministerial advice can reach beyond questions of appointment...

- **Episcopal Vacancies** - the established convention is that where the appointment of a diocesan bishop creates a vacancy even in certain non-episcopal offices, it is the Crown that appoints to the vacancy so created.
- **Priests** (the incumbents of parishes) - A total of 652 benefices are involved: 210 where the Crown appoints on the advice of the Prime Minister, and 442 where the Lord Chancellor is the appointing authority – in 157 as the sole patron, and in 285 cases either alternately or sequentially with other patrons.
- Appointment procedures
 - Archbishops²⁴ and diocesan bishops - The statutes confer an absolute discretion on the Crown. In practice, however, since 1976 the actual process of appointment of archbishops and diocesan bishops has been modified and developed to make room for a greater degree of both clerical and lay involvement of the Church whilst continuing to reserve the ultimate decision to the Crown advised by ministers.²⁵
 - In the case of a Canterbury vacancy, the Prime Minister nominates the chair of the Crown Nominations Commission.²⁶
 - For appointing all other bishops, having taken into account the statement of needs provided by the diocese, the national statement of needs provided by the Archbishops and also the memorandum written by the Appointments Secretaries, and after considering eligible candidates, the Crown Nominations Commission submits two names (in order of preference if they so choose) to the Prime Minister for recommendation to the Crown. The Prime Minister may determine which of the names to recommend or invite the Commission to reconsider and submit an alternative name or names.

History

200 years of change

²³ At one time or another there have been six types of Peculiars: Monastic Peculiars, where great abbeys and certain religious orders were exempt from episcopal jurisdiction; Royal Peculiars, usually where churches were situated on lands connected with a royal castle or palace (e.g. St George's Chapel, Windsor, Westminster Abbey), and which exempt from any jurisdiction other than that of the Sovereign; Archbishopal Peculiars, linked with rights claimed by archbishop to exercise jurisdiction where they had manors or palaces; Episcopal Peculiars, where bishops owned residences in dioceses other than their own; and Cathedral Peculiars, in which cathedral chapters had jurisdiction over their property and instituted clerks. Apart from the Royal Peculiars, most of the rights and privileges of others have been removed, so that they now come under the jurisdiction of the diocesan bishop, although the holders of some of them retain the title of Dean (e.g. Bocking, Battle, Stamford). [Oxford Dictionary of the Christian Church.]

²⁴ The Church of England has two archbishops because it is divided into two provinces - Canterbury in the South of England and York in the North. The origins of this two province arrangement can be traced back to the era of the Roman Empire.

²⁵ In addition, the Church itself has continued to develop selection procedures designed to identify clergy who appear best qualified for consideration for appointment (the Crown Nominations Commission)

²⁶ In such an instance, there is added to normal membership of the Commission one of the members of the Primates Meeting of the Anglican Communion elected by the Joint Standing Committee of the Primates Meeting of the Anglican Communion and the Anglican Consultative Council as a voting member. Also invited, but in a non-voting capacity, is the Secretary General of the Anglican Communion. In the case of a York vacancy, the Appointments Committee of the Church of England, after consultation with the Archbishop of Canterbury, nominates the chair.

In 1800, state and church in England were, formally, a single enterprise. A largely Anglican Parliament legislated for secular and ecclesiastical affairs in a structure which in theory treated the entire population outside Scotland as a uniform entity. However, since then a process of - still incomplete - institutional separation has been occurring.

Toward Pluralistic Toleration

The law subjected all Dissenters to civic penalties designed to deny them full membership of the political society. The support of the clergy and the fabric of the churches themselves depended on a system of local hypothecated taxation – tithe and church rates - underpinned by the state. The state appointed the episcopacy which was itself in its entirety in full membership of the senior part of the legislature.

The state had since 1727 long in practice admitted most Christian Dissenters to full, normal civic participation by means of annual Indemnity Acts. In addition, since the late seventeenth century, the state had made payments, known as the “Regium Donum”, to Dissenting ministers in England and Ireland – a limited form of concurrent endowment. In other words, the state had conceded the principle of pluralism for many, if not all, purposes in practice. During the nineteenth century the same benefits were extended to non-Trinitarian Christians in 1813, to all Protestant Christian Dissenters by the removal of all formal discrimination against them in 1828, to Roman Catholics in 1829, to Jews successively in 1846 and 1858, and to explicit non-believers in 1888. The introduction of civil marriage and the removal of the Church of England’s remaining control of marriage in 1836 legally institutionalised pluralism further, as did the burial legislation of 1880.

As a response to political events in Ireland and in an atmosphere influenced by the behaviour of the Church in the run up to the 1832 Reform Act, the state in 1833 drastically reorganised the Irish church in a way which, although designed to render that church more defensible, triggered the Tractarian reaction in England, and signalled to many clergy a more final disjunction than the legislation of 1828 and 1829.

Benchmarks of Separation

The Public Worship Regulation Act 1874 (which attempted to legislate for ritual) is commonly viewed nowadays as the last direct legislative initiative by Parliament in relation to religious worship or doctrine.

The “Enabling “Act of 1919 which established the Church Assembly and conferred upon it unique powers of legislative initiative. These included an ability, subject to veto, to determine the content of legislation given statutory force. One of the drawbacks of the preceding system had been that, when Parliamentary time could be found at all, the shape of the legislation as introduced into Parliament could be greatly altered by the time it emerged.

A Timeline of Changes

1534 – The Act of Supremacy, where King Henry VIII declares himself Supreme Head of the Church of England, is passed by Parliament

1559 – The Elizabethan Act of Supremacy - Not surprisingly, Henry VIII's Act of Supremacy was repealed (1554) in the reign of his staunchly Catholic daughter, Mary I. Equally unsurprisingly, it was reinstated by Mary's Protestant sister, Elizabeth I, when she ascended the throne. However, in contrast to Henry, Elizabeth declared

herself Supreme Governor of the Church of England, so as to avoid any accusations of attempting to supplant Jesus Christ as the head of His Church.

1689 – The Act of Toleration guarantees religious freedoms to Catholics and Dissenters

1813 - Excommunication Act (53 Geo III c 127) abolished the civil penalties of excommunication.

1828-9 - The Repeal of Test & Corporation Acts (1828) and the Roman Catholic Relief Act (1829) : Parliament ceased to be a wholly Protestant body though it retained legislative control over the Church of England.

1833 - Irish Church (Temporalities) Act abolished church rates (the rate levied for the support of the church fabric and divine service) in Ireland, halved the number of archbishoprics to two, reduced the number of bishoprics from eighteen to ten, and established a Commission to administer the funds released by the changes. (Because it was seen by some as unilateral interference by the state, this Act was one of the triggers of the Tractarian movement.)

1836 - Marriage and Registration Acts permitted civil marriage and registration, and also allowed Dissenters to marry in their own places of worship. [Quakers and Jews had already been permitted to marry outside the Church of England.]

1850 - Gorham judgement. The Judicial Committee of the Privy Council, a predominantly lay body, determined a controversial doctrinal dispute concerning baptismal regeneration finding in favour of a clergyman whom his bishop had refused on doctrinal grounds to institute into a living to which the clergyman had been presented by the Lord Chancellor exercising his ecclesiastical patronage. The case drew attention to the reality of ultimate state control over the Church of England.

1854 - Oxford University Act abolished religious tests for admission to Oxford for most purposes.

1858 - Jewish Relief Act permitted Jews to sit in Parliament which was therefore no longer nominally an entirely Christian assembly though it retained power to legislate for the Church of England.

1868 - Abolition of Compulsory Church Rates Act abolished the compulsory rate levied on all parishioners irrespective of religious affiliation after successive attempts in Parliament from 1834 to address the issue.

1871 - Universities Tests Act removed requirement of Church of England membership from all posts at Oxford and Cambridge and Durham except the Regius Divinity chairs.

1910 - Accession Declaration Act abolished the monarch's previously required declaration against transubstantiation and substituted a formula otherwise no longer intentionally hostile to Roman Catholics.

1919 - Church of England Assembly (Powers) Act [known as the Enabling Act] instituted the Church Assembly and a special legislative procedure which gave the Assembly the right of initiative in proposing Measures with statutory force subject to a Parliamentary veto that could reject a Measure but not amend its terms. This gave the Church of England its own legislative body and ended its complete legislative dependence on Parliament, thus largely completing a process which cumulatively emphasised the distinctiveness of the organs of church and state though without eventuating in any final separation.

1927/8 – Parliament twice rejected Measures for a Revised Prayer Book. 1928 Strong reaction in the Church of England which had regarded the Enabling Act as securing it effective autonomy in such matters above all. In

1929 the bishops of the Canterbury Convocation voted to allow clergy discretion to use the Prayer Book nonetheless.

1964 - Commission on Crown Appointments and the Church (Howick Commission) set up after Government's failure to appoint the incumbent Provost of Guildford to the Deanery of the new Cathedral. Modest suggestions not acted upon though its recommendation in favour of a consultative procedure including vacancy in see committees ultimately influential.

1970 - Report of the Archbishop's Commission on Church and State (Chadwick Report) recommended full power to Synod to determine forms of worship, disagreed on method of episcopal appointment though agreed that Church of England should have the dominant voice, and accepted 1969 government White Paper proposals on episcopal membership of House of Lords,

1974 - Church of England (Worship and Doctrine) Measure implementing the relevant Chadwick recommendation accepted by Parliament. (The Measure nonetheless reserved to Parliament the right to make any change in the use by the Church of the Book of Common Prayer.)

1976 - Appointment of bishops – Prime Minister's statement accepted majority Chadwick recommendation and rejected minority recommendation. In a procedure with which the Prime Minister's Secretary for Appointments was associated, the Church of England to forward two names with the Prime Minister remaining free to recommend either one to the Sovereign or to request fresh names.

1993 - Priests (Ordination of Women) Measure permitted the ordination of women to the priesthood.

2005 - Church of England has already agreed to allow people in civil partnerships to become clergy, provided they promised they would remain celibate.

2014 - The 1993 measure was repealed and replaced by a measure permitting women to be ordained as both priests and bishops.

2013 - The Church's House of Bishops announces it will allow gay clergy to become bishops if they promise to be celibate.

2016 - Nicholas Chamberlain is the first bishop to announce himself as in a same-sex relationship and celibate.

2019 - The Church announced at General Synod that same-gender couples may remain and be recognised as married when one spouse experiences gender transition provided that the spouses identified as opposite genders at the time of the marriage.