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Canon B5 and the *Prayers of Love and Faith*

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It could once be said that ‘uniformity ... is one of the leading and distinguishing principles of the Church of England - nothing is left to the discretion and fancy of the individual’ (*Newbery v. Goodwin* (1811)). However, considerable liturgical variation is now permitted at the discretion of the minister under Canon B5, and it is for use under this discretion that *Prayers of Love and Faith* are to be provided. A draft of *Prayers of Love and Faith* has been published [here](#), describing itself as a suite of resources for ‘praying with and for two people who love one another and who wish to give thanks for and mark that love in faith before God.’ This blog post comments on some relevant provisions of Canon B5.

The draft *Prayers of Love and Faith* indicates that the prayers will be commended by the House of Bishops. Commendation (unlike approval under canons B 2 or B 4) gives no special legal status to the prayers.

Canon B 1(2) requires that

Every minister shall use only the forms of service authorized by this Canon, except so far as he may exercise the discretion permitted by Canon B 5.

Canon B 5(1) provides that

The minister who is to conduct the service may in his discretion make and use variations which are not of substantial importance in any form of service authorized by Canon B 1 according to particular circumstances.

Therefore, when an authorized service is used, such as ‘A Service of the Word’ or a ‘Holy Communion Service’, and it is proposed to vary the authorized form of the service by the insertion of material from *Prayers of Love and Faith*, it is for the minister who is to conduct the service, in his or her discretion, to make and use variations. These variations must not be ‘of substantial importance.’ This requirement would seem to place a significant limit on the variations which a minister can make and use under Canon B 5(1). Nevertheless, the draft *Prayers of Love and Faith* indicates in ‘An Outline Order for a Service of the Word’ or ‘An Outline Order for a Service within a Celebration of Holy Communion’ that the inclusion of prayers and associated ceremonies (including rings and candles) are to be considered variations to the authorized services which are not of substantial importance. Having watched the February 2023 General Synod debates on *Living in Love and Faith*, it seems to me that one thing which united all sides to the debate was the fact that the proposed prayers *are* of great importance. It would therefore be helpful, in the final *Prayers of Love and Faith*, to see some reasoning as to why the prayers can be described as variations ‘not of substantial importance.’

In addition to the provisions of canon B 5(1), entirely unauthorized forms of service (rather than variations to authorized services) are permitted under canon B 5(2):

The minister having the cure of souls may on occasions for which no provision is made in The Book of Common Prayer or by the General Synod under Canon B 2 or by the Convocations, archbishops, or Ordinary under Canon B 4 use forms of service considered suitable by him for those occasions and may permit another minister to use the said forms of service.

Unauthorized forms of service may only be used where there is no authorized provision. An example of such a form of service would be *An Order for Prayer and Dedication after a Civil Marriage*, commended by the House of Bishops and included in the Common Worship: Pastoral Services volume. In this case, the decision is made by 'the minister having the cure of souls', who may use 'forms of service considered suitable by him' – and may also permit another minister to use the said forms of service. Here, as there is no authorized service from which variations are being made, there is no restriction that variations must not be 'of substantial importance.' As with *An Order of Prayer and Dedication after a Civil Marriage*, the provisions of this canon would seem to be the obvious way for a minister to use forms of services of blessings for couples. However, as we have seen, that is not the approach which the draft *Prayers of Love and Faith* is commending.

In addition, it is not clear whether the provisions of canon B 5(2) can be used where there is no 'minister having the cure of souls,' i.e. in a parochial vacancy where no priest-in-charge has been appointed, or in some chaplaincy or BMO settings. This seems a lacuna in the liturgical law. It is tentatively submitted that, until the canon can be revised to contemplate these situations, the only minister who can be described as 'having the cure of souls' is the Bishop.

Governing the discretion of ministers both in B 5(1) and B 5(2), canon B 5(3) requires that

All variations in forms of service and all forms of service used under this Canon shall be reverent and seemly and shall be neither contrary to, nor indicative of any departure from, the doctrine of the Church of England in any essential matter.

In the draft *Prayers of Love and Faith* it is stated that

The prayers and forms of service commended here are 'neither contrary to, nor indicative of any departure from, the doctrine of the Church of England in any essential matter' (including, but not limited to, the definition of Holy Matrimony in Canon B 30).

A conclusive determination of this doctrinal question would only follow disciplinary proceedings under the Ecclesiastical Jurisdiction Measure 1963, and such proceedings rarely take place. Commendation by the House of Bishops gives good grounds for a minister to believe that there is no doctrinal incompatibility– but the responsibility remains with the minister.

Finally, Canon B 5(4) states that

If any question is raised concerning the observance of the provisions of this Canon it may be referred to the bishop in order that he may give such pastoral guidance, advice or

directions as he may think fit, but such reference shall be without prejudice to the matter in question being made the subject matter of proceedings under the Ecclesiastical Jurisdiction Measure 1963.

If a question is duly raised and the bishop chooses to give direction, rather than guidance or advice, then the duty of canonical obedience may be engaged. If this is so, then failure to follow the bishop's direction would be a breach of ecclesiastical law and a disciplinary offence. This would seem to indicate that, if a question is raised, the bishop would be able to direct a minister not to use *Prayer of Love and Faith*, or indeed any other variations which the bishop believed were inappropriate, in a given context or generally.

Two concluding points:

Firstly, the Church of England has not changed its doctrine, and commendation does not change the legal status of prayers. Therefore, it seems anything which will lawfully be commended as part of *Prayers of Love and Faith* is already lawful for use under Canon B5, and has been for some time.

Secondly, in proposing to commend prayers, rather than seeking for the prayers to be approved under Canon B2 or Canon B4, the House of Bishops leaves a degree of legal uncertainty as to the circumstances in which they can be used. It appears that a bishop may be able to veto their use under Canon B 5(4). Clergy using the prayers cannot be certain that they will not be liable to disciplinary proceedings. Given the controversy surrounding the prayers which was seen in the February 2023 meeting of the General Synod, these legal questions are ones which some interested parties may be inclined to test.