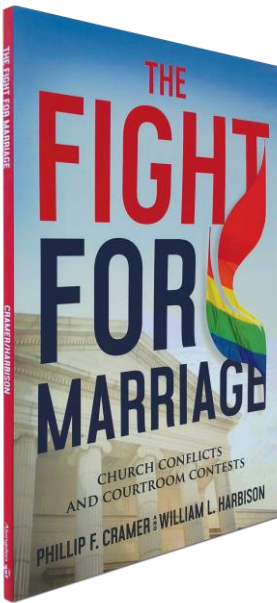


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The Fight for Marriage: Church Conflicts and Courtroom Contests



In 2015, attorneys Phil Cramer and Bill Harbison were part of the legal team that represented several same-sex couples who sued for the right to marry. In their book *The Fight for Marriage: Church Conflicts and Courtroom Contests* they describe the legal and church history of marriage – and our assumptions about it – as well as the personal, spiritual, and legal milestones that led to marriage equality for all.

With a first-hand account of the courtroom drama concerning marriage in American communities and states, Cramer and Harbison show why our society cares about

marriage and how the church and the state function in partnership to foster the purposes and social benefits of marriage. They share the stories of the families represented and discuss how their Christian faith motivates their pursuit of social justice.

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THE POWER OF THE NARRATIVE

When a child is baptized in The United Methodist Church, the parents or sponsors of the child are asked to affirm whether they “accept the freedom and power God gives you to resist evil, injustice, and oppression in whatever forms they present themselves.” What does it mean to accept the freedom and power given by God? What happens when injustice or oppression takes the form of the state? Or the church itself? And how does one “live according to the example of Christ” and serve Jesus Christ “in union with the Church” when the church itself is not unified?

This book traces our attempts to answer these questions in the context of marriage equality. The story is told from the perspective of two United Methodists—lay leaders and lawyers—who live in two coexisting and overlapping worlds: the church and the state. In those overlapping worlds we simultaneously represented same-gender couples seeking recognition of their marriages by the state, while working within our local congregation as it sought acceptance of LGBTQ persons in the eyes of

The United Methodist Church. While the perspective is ours, the stories are not.

In our professional lives, we are charged to give voice to those who need to be heard within our legal system. While we do so within the technical and specialized environment that constitutes the American legal system, we are actually packaging the underlying narratives. And these narratives are the essence of what conveys truth.

In many ways, our professional lives are modeled after our faith tradition in which laws and principles are often more effectively conveyed by stories or parables than by edicts or pronouncements. While some principles can be expressed through simple commandments such as “thou shall not kill,” other principles require narratives to explain and understand. Jesus frequently used parables to express deep and compelling truths. For example, one does not place a lamp under a bowl or build on ground without a foundation. And it is the smallest of all seeds, the mustard seed, that when planted becomes the largest of all garden plants. Or it is the one lost sheep that is found that creates more happiness than the ninety-nine sheep that did not wander off. And it is not just the stories told by Jesus but also the stories about Jesus that have been used within our faith tradition to express a way of life. For example, the story of Jesus casting out the demons from Legion conveyed significant political and social commentary on multiple levels that would have been readily understood at the time.

Our journey as storytellers is deeply rooted in our faith. A faith that compelled us to action and action that required our faith. It is a faith grounded in the kingdom of God, experienced

right here and right now. This faith has confidence in both the church and the law. And it is a faith in and exercised through the power of the narrative.

Our interest in taking action against inequality is rooted in our own stories. Why would we want to take on a case about marriage? Lawyers are affected and changed by the cases they take and the life experiences that they encounter. The fact that marriage was available in Tennessee to opposite-gender couples, but not to same-gender couples, was, to us, unjust. Things from our past reminded us of that injustice and compelled us to act.

In the early 1980s, Bill worked on a dispute between Yale University in New Haven and Fisk University in Nashville about the ownership of the unpublished papers of Jean Toomer, a renowned author of the Harlem Renaissance. Jean Toomer's widow, Marjorie Content Toomer, lived in Doylestown, Pennsylvania, and Bill was sent to interview her about the case.

The nature of the dispute about Jean Toomer's papers is not relevant to what happened next. Bill arrived in Doylestown and rented a car, finding his way by maps to Marjorie Toomer's home in an old renovated barn just outside of town. The house was filled with original paintings, furniture, and the collections of an interesting life. Marjorie was in her eighties, and offered a drink of Jack Daniel's. Jean Toomer had died many years earlier. As Marjorie discussed her life and her intentions about his literary legacy, she brought out a New York newspaper clipping from the 1930s with this headline: "Miss Content Marries a Negro." The couple was legally allowed to marry in New York (although it drew this type of headline, even in that state), but that marriage

would have been unlawful in Tennessee (and many other states) in the 1930s.

The memory of that headline remains as a reminder of how unfairly people are sometimes treated for reasons that have nothing to do with their basic human dignity or sacred worth. Of all the memories that Bill heard from Marjorie that day, over the course of several hours, this was one that she had preserved and wanted to show as an explanation of a portion of her life. She became a real friend that day. Bill and his wife, Patty, were expecting their first child, Jay, who was born later that year. Marjorie sent them a sweater for Jay that she had knitted by hand.

Phil was likewise profoundly affected by his own life experiences as a young attorney. Phil's daughter Caroline was celebrating her fourth birthday, which happened to fall on Martin Luther King Jr. Day. As he tucked his daughter into bed that evening, he read to her a children's book about MLK's boyhood. It had capped a day of remembrance and awareness that included a family ritual of watching King's "I Have a Dream" speech around the breakfast table.

When Phil finished reading the book to his daughter, he decided to use it as a parental teaching moment. He explained to his young child that injustice and inequality persisted to this day and she had a responsibility to take action. Before Phil could pat himself on the back for instilling this bit of parental wisdom, the teaching moment was turned on its head. His daughter looked him in the eyes and asked, innocently and sincerely as only young children can do, "Daddy, so what are you doing?" This question would ring in Phil's ears in the coming days, weeks, and months as he worked at our business law firm. And it would be a turning

point for Phil to remember why he went to law school in the first place.

Years after these experiences, in late April 2015, we both were together in Washington, DC, for one of the most significant cases in which we could ever imagine to participate. Other members of our law firm, and other members of the legal team of which we were a part, were also in Washington that week. On Tuesday, April 28, 2015, the US Supreme Court would hear arguments in the case of *Obergefell v. Hodges*, a consolidated case that presented the court with questions about whether same-gender couples have the right to marry, and to have their marriages recognized in all fifty states. Our Tennessee case was part of that consolidated case.

That night, however, was a moment of calm before the big event in the Supreme Court. Legal briefs had been written and submitted, and preparation was nearing completion. The rest of our legal team had plans for the evening, and so the two of us walked from our hotel in search of a restaurant. We found a charming French restaurant a few blocks away that had an open table. It was a beautiful night, and we were seated on the restaurant's patio. At the next table, two other men sat together and the waiter was delivering their appetizers. Our table neighbors were friendly, and they made suggestions for us to consider ordering. They lived nearby, and were familiar with the menu.

A little further into the meal, they asked what brought us to Washington. We explained that we were lawyers from Tennessee, and that we were there for the Supreme Court case on marriage. Warily, they asked us which side we represented. When we told them that we represented the plaintiffs seeking legal recognition

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of their marriages, they beamed with pleasure and told us that they were themselves a committed couple. Our lives and stories were intersecting at a moment in time that was hugely significant for all of us.

How we reached that moment, and what happened after, has formed our perspective on marriage equality.

