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Chapter

Evolution of Catholic Marriage Morality in the Twentieth Century from a Baby-Making Contract to a Love-Making Covenant - Part I: Era of John Paul II

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Abstract

For nearly a century Catholic Church teaching on Sexuality evolved greatly. Changes in science and the teaching of other Christian churches begged for a fresh start. John Paul II, elected pope in 1978, attempted to update that teaching by providing new background arguments, without changing any of the strictures in the foreground. John Paul II insisted on necessity of total love, allowing for no exceptions. He claimed that divorce was impossible because the spouses retained no control over their marriage promises. Homosexual activity was judged to be morally deficient. Likewise the recent arrival of reproductive technology was largely condemned for breaking the sexual unity of the spouses. But fertile sexual activity was newly appreciated as the important activity of spouses cooperating with the creative activity of God. In the twenty-first century the Church's official teachings continues to be reformed, but their relevance is widely questioned as social norms continue to drastically change.

Keywords: John Paul II, total love, contraception, natural family planning, divorce, homosexuality, reproductive technology, canon law

1. Introduction

As the twentieth century wore on, the Catholic Church's teaching on sexual ethics became ever more embattled. After the 1968 teaching on the wrongness of birth control, the teaching became more and more contested. The new pope, John Paul II, who inherited the enthusiasm of the second Vatican Council, tried to give a new defense of the teaching. This effort was somewhat unexpected, since he had previously skipped the commission that was working on the topic. John Paul, confident in his unique abilities, decided to rethink the teaching from a personalist perspective.

2. John Paul II

In his major document on marriage, *Familiaris consortio*, John Paul II's central criterion for marital morality is "total love." His thesis is considered by some of his

admirers to be a brilliant flowering of personalism, and it is considered a romantic flight of fantasy by some of his critics. He writes

The total physical self-giving would be a lie if it were not the sign and fruit of a total personal self-giving, in which the whole person, including the temporal dimension, is present. If the person were to withhold something or reserve the possibility of deciding otherwise in the future, by this very fact he or she would not be giving totally... This totality which is required by conjugal love also corresponds to the demands of responsible fertility.

Total love leads to the "greatest possible gift, the gift by which spouses become cooperators with God for giving life to a new human person." Total love proclaims "the central word of Revelation." More broadly, John Paul II writes, all human beings have a "dignity" that "demands that they should be always and solely the term of a self-giving love without limitations of time or of any other circumstance". It seems clear that John Paul II used inflated language ([1], #11–14, 19–20, 37, 80). One might recall that when Jesus spoke of "total love," including mind, heart, and body, he was speaking about love for God. Further, whatever his divine nature, the human Jesus always acted under limitations of time and circumstance. When Jesus spoke of the greatest gift, he referred to dying for a friend. These reservations notwithstanding, John Paul II's introduction of the concept of "total love" served for the next decades as a new foundation for a marital ethic.

Using this foundation, John Paul II attempted to shore up the prohibition against contraception. He no longer defended the Church's prohibition by repeating arguments about the nature of sperm or the nature of the biological organs or the nature of sex or the ends of marriage. Instead, he offers a novel argument that is far from the tradition. He argues that contraception fails because it prevents the self from "total self-giving." Further, he adopts the metaphor of sex as expressive language. Thus contraceptors are said to tell a "lie" by pretending to offer their total self while withholding some aspect of their self. They practice a "falsification of the inner truth of conjugal love." They use "objectively contradictory language, namely, that of not giving oneself totally to the other" while professing total self-gift to the other. By contrast, those who practice natural family planning are said to respect the "inseparable connection between the unitive and procreative meanings of human sexuality" ([2], #11, 32).

The term "objectively" is designed to forestall the obvious possibility that the spouses might honestly tell one another that they do not intend particular sexual acts to express a desire to become parents at the present moment. John Paul II asserts that bodily activity necessarily speaks a word (that is, has a meaning) quite apart from the intentions of those who speak that word. And it cannot have any alternative meaning. This emphasis on objective language of the body itself, furthermore, also enables John Paul to skip over the possibility that the recipient of this sexual word might be harmed by that word. For example, a pregnancy might kill a wife or overburden a family. One speaks the truth, even if it kills.

John Paul continues his personalist argument by asserting that those who practice contraception degrade one another because they split the personal unity of body and soul, nature and person. A distinction between nature and person had become central in the theological debate over contraception. John Paul characterized the distinction as leading to "two irreconcilable concepts of the human person and of human sexuality." In John Paul II's view, those who say they prioritize the needs and life of the "person" over the natural patterns of their bodily cycles in effect create a harmful separation of the person from his or her nature ([3], #32). Instead, only those who accept the natural cycle accept the person. As the Vatican

incautiously wrote two years later, "The biological nature of every human is untouchable, in the sense that it is constituent of the personal identity of the individual" ([4], #6). On that criterion, kidney surgery would be unacceptable. As has been noted above, the "sanctity" of the body refers primarily to the sexual organs.

Do those who practice natural family planning fail in total love since they do not totally give themselves during fertile periods? On two occasions, John Paul II proposed that using natural family planning was wrong, if used to not bear children: "it is not possible to practice natural methods as a 'licit' variation on the decision to be closed to life, which would be substantially the same as that which inspires the decision to use contraceptives" ([5], #6). Later, John Paul II said that "natural methods of fertility regulation" should not be considered merely in their functional aspect. Otherwise people would properly "speak of them as if they were another form of contraception" ([6], #2). This position is contrary to that of Paul VI. Presumably, the fact that it was put forward in minor addresses and has rarely been repeated means that it is not a position the Vatican wants to publicize. Nevertheless, this prohibition against choosing natural family planning methods as a way of avoiding procreation is quite consistent with John Paul II's emphasis on total love.

In his lengthy "Letter to Families," John Paul II tries to ground the indissolubility of marriage also in the total love that spouses have for one another. The very nature of love is that it "must be lasting and irrevocable. The indissolubility of marriage flows in the first place from the very essence of that gift: the gift of one person to another." This claim strongly grounds the moral obligation to keep a marriage thriving. Still, John Paul II does not make clear how it grounds the ontological impossibility of divorce. That is, divorce typically is a moral failure in marital love on the part of one or both spouses; but a love union that has become loveless has in practice ceased to exist. It has dissolved. John Paul II responds by explaining that by "the intimate truth" of the mutual communion of spouses, the Church does not mean something subjective; rather it is the objective truth of the spouses ([7], #11-12). This line of argument follows the pattern that a practice means something objective (here, marriage is essentially a love union), even when subjectively there is no love present. This position has much to commend it. Moral norms often critique an absence of what should be. But it also leads to a rather severe disjunction between an "objective nature" and reality as people experience it. For instance, if those who (attempt to) divorce seem happily married in a new loving marriage, they are objectively not married and not really loving. Sexual intercourse with their new partner is adultery, while having an "affair" with their (previous) spouse would be virtuous. The disjunction, which goes back to Jesus [Matt 19:9], has widened in recent times. It is a disjunction between an ahistorical, non-narrative view of marriage and the actual lives of people.

John Paul II closed out the twentieth century when he addressed this tension between the canonical tradition of indissolubility and the reality that marriages were breaking up in ever growing numbers. He began by asserting to jurists that "the central core and foundation" of the canon law view of marriage "is the authentic concept of conjugal love." But then he interpreted this love in a way that makes it loveless. By conjugal love, he meant "essentially a commitment to the other person ... made through a precise act of the will." In other words, conjugal love is simply the exchange of marriage vows at a wedding. John Paul rightly noted that affections of love or mutual attraction cannot provide the necessary stability. Hence he resorted to traditional language: "marriage consists essentially, necessarily and solely in the mutual consent expressed by those to be married. This consent is nothing other than the conscious, responsible assumption of a commitment through a juridical act by which, in reciprocal self-giving, the spouses promise total and definitive love to each other." He added that only a "reciprocal commitment

of self-giving ... can guarantee its permanence" ([8], #3–4). The problem, as is evident, is that even a strong commitment of the will at the time of marriage does not guarantee permanence except on the parish registry of sacraments.

3. Vatican documents during John Paul II's papacy

During the long pontificate of John Paul II, various Vatican offices published several documents in response both to the changing culture in the West and to the lack of reception of official teachings by many Catholics. Six documents show the Church adapting to its time, even as it tried not to change its norms.

3.1 Code of canon law 1983

The authors of the 1983 revised *Code* had to incorporate the new understandings of marriage in Vatican II while still preserving the kind of minimalism and precision that is appropriate for law. They made several changes. Where the first Code of 1917 said marriage was a contract, the second begins by saying it is a covenant. But, since the biblical notion of covenant, while doubtless richer than contract, is also less clear in what it entails, the 1983 Code returns in the very next sentence (and generally throughout) to describing marriage as a "contract." The new Code thereby embodies the vexing tension between a more personalistic and more legalistic understanding of marriage. Where the old *Code* spoke of mutual help and allaying of concupiscence, the new Code speaks of "the good of the spouses." In the earlier *Code*, the good of the spouses was not envisioned. Here it is placed first, ahead of procreation; and the updated *Code* highlights a "partnership of the whole of life." Where the old *Code* claimed that husbands and wives exchange "rights over the body," in the new *Code* the exchange is that of personal selves. The personalism of the new Code adds that a marriage is not ratified until the spouses have performed the "conjugal act" "in a human manner." Finally, while the old Code spoke of "each party," the 1983 Code speaks of "a man and a woman," thereby excluding not only polygamy but also-a looming problem-same-sex marriages ([9], #1055.1, 1057.2, 1061.1).

3.2 Congregation for Catholic education

The influence of the psychologies of the twentieth century is manifest in the Congregation for Catholic Education's (CCE) assertion that "sexuality is a fundamental component of personality, one of its modes of being, of manifestation, of communicating with others, of feeling, of expressing and of living human love. Therefore it is an integral part of the development of the personality." The animal model for understanding human sexuality is no longer appropriate. Complementing the usual view that the human spirit must shape and control human bodies, the CCE observes that sexuality shapes the psychological and spiritual levels of human existence. In this new framework, the CCE describes chastity as "the capacity of guiding the sexual instinct to the service of love and of integrating it in the development of the person" ([10], #4–6, 18).

Sexual activities are still not evaluated in terms of stages of growth. For example, the CCE sees the immaturity of adolescent masturbation not as a developmental phase, but as a symptom of profound problems. Similarly, youthful sexual intercourse outside the context of marriage is described as "not personal, but instinctive." That is, sexual activity must be fully personal, or else it is animalistic, without meaning, and simply selfish ([11], #5, 95, 97, 99).

The claims that sexuality is integral to a person's identity raised new questions about celibacy. The CCE boldly admits that virginity is, in one sense, a vocation not to love; it requires one to renounce the love that typifies marriage. This means that it renounces "the maximum expression on the physical level of the married persons' communion of love." Nevertheless, the CCE argues that the real dynamism in sexuality is that of self-giving openness to others. It rightly insists that the dynamism of love itself can be expressed both in marriage and celibacy. Still, it claims--counter-intuitively and without explanation--that those who are virgins can exercise this virtuous love more profoundly than married people ([12], #5, 31).

4. Congregation for doctrine of the faith

The issue of homosexuality became ever more public in the Western world, and the CDF had to address it again. In its earlier document, it had described homosexuality as a pathology, but admitted that it might not be possible to alter this condition. In the meantime, many advocates asserted that homosexuality, like heterosexuality, was not alterable because it was a healthy, constitutive part of a person's identity. As such, they concluded, those who were homosexually oriented should be allowed or even encouraged to fulfill their own distinctive nature. The Congregation reverses this analysis. It does not go from the homosexual orientation to the moral legitimacy of acts, but from the moral wrongness of the acts to the "disorder" of the orientation to those acts. Homosexual acts are said to "annul the rich symbolism and meaning, not to mention the goals, of the creator's sexual design." Homosexual activity, since it is not part of a union that is able to transmit life, "thwarts the call to life of that form of self-giving which ... is the essence of Christian living" ([13], #3, 7). In spite of any experience to the contrary, it cannot be an act of love.

Throughout the twentieth century, there grew a great divergence between Church teaching and the changing experience of people. Whenever there is a divergence between experience and a normative pattern, it can be that the experience is partial or illusory and so should change. But it can also be that what is taken to be the normative pattern itself needs to change. Thus, Church teaching insisted on the procreative meaning of sexuality and marriage. But the Church accommodated for sterility, most commonly in the case of post-menopausal women. The Church seems to have done so out of recognition that marriage and sexual activity can greatly help human beings, even when procreation is impossible.

When, however, it comes to sexual activity that in principle and not just in fact is sterile, the Church will not allow that there can be any good whatsoever involved. Heterosexual acts, even when they are sterile, are the "type" of act that is procreative, while homosexual acts are not. The Vatican then concludes that if a sexual act is not the type that can be procreative, it is by that fact also incapable of expressing love. The inseparability principle is read to mean not merely that these two meanings ought not to be separated, but also that they cannot be separated. Absent one meaning, the other too is gone. Neither of these claims matched the experience of many persons, whether heterosexual or homosexual. The CDF concedes that homosexually active persons may be otherwise generous and self-giving. But it holds that their sexual activity cannot be anything other than self-indulgent. The Vatican admits that homosexual abstinence itself is a denial of self and thus leads to a lack of human fulfillment. Rather than conclude from this deficiency that some accommodation should be made, the Vatican points to this loss as a way of embracing the cross of Christ ([14], #7, 12).

In 1987, the CDF issued an exploratory document, *Donum vitae*, on reproductive technology. Paradoxically, St. Augustine, the source of so much of the Church's sexual ethics, likely would have gladly welcomed these modern technologies since they make it possible to fulfill the reproductive task of marriage without the moral dangers involved in sexual acts. The CDF reports that it is not opposed to reproductive technology merely because its interventions are artificial. Such technological interventions in other parts of human life and in all sub-human animals are permissible. Rather, the immutability and inviolability of the laws of nature given by God refer only to the sexual transmission of life among humans. "The gift of human life must be actualized in marriage through the specific and exclusive" sexual acts of the husband and wife ([15], Intro. #2–4).

The inseparability principle became a double-edge sword. Where previously the Church forbade love-making without openness to baby-making, now it forbids baby-making without a spousal-act of love-making. These new means to achieve the end of marriage are morally prohibited. That is, it is not legitimate to judge the morality of, say, in vitro fertilization "from the totality of conjugal life" to which it contributes nor to view it as part of "the conjugal acts which may precede or follow it." Therefore, surrogacy, heterologous fertilization, and homologous artificial fertilization, even when they might enhance the marriage, are excluded. It is better that marriage be imperfect than that conception take place in an imperfect way ([16], #II.B.4–5).

5. Pontifical council for family

The shift to a sexual ethic based on love is seen unambiguously in the Pontifical Council for Family's (PCF) document, "Truth and Meaning of Human Sexuality." For the PCF, "the body also expresses spiritual love." Instead of being described as a remedy for concupiscence, sexual activity in marriage has the lofty goal of enabling spouses to grow, "and at the same time it contributes to building up the civilization of love." This love includes and surpasses friendship and "is achieved when they give themselves totally" ([17], #3, 11, 14).

The problem with the shift to a sexual ethic based on love appears in the challenge faced by the PCF's document, "Family, Marriage, and 'De Facto' Unions." More and more people were cohabiting with no commitment to marriage. For many, marriage was not the first step into adulthood but the last step after adulthood had basically been attained. The PCF wisely judged that many de facto unions, regrettably, spring from and contribute to an individualism and a privatism that neglects the common good. Somewhat surprisingly, compared to other Church documents, the PCF sensitively recognizes that, in these de facto unions, there often is "reciprocal affection." What they lack is the "marriage bond, with its original public dimension." Established by love and free consent, these cohabiting unions still do not have the public and formal commitments and responsibilities of marriage, enforceable by law. Therefore, the PCF strikingly concludes, it is inadequate to speak of love "as the basis of marriage." While de facto unions can describe themselves as "a community of life and love," marriage is distinguished by being an institution of conjugal love ([18], #2, 9, 11, 12, 20, 34). This reference to "conjugal love," as distinct from other kinds of love, makes a significant advance. Unfortunately, its distinctiveness is rarely clarified.

6. Catechism of the Catholic Church

The Catechism of the Catholic Church (CCC) announces that it intends not to say anything new, but only to present "an organic synthesis of the essential and

fundamental contents of Catholic doctrine." It asserts that God is the author of marriage, though it also admits that the institution has undergone many variations in different cultures. With a nice turn of phrase, it interprets the biblical role of women as "helpmate" to mean that she "thus represents God from whom comes our help." In a balanced assessment, the *Catechism* explains, "After the fall, marriage helps to overcome self-absorption, egoism, pursuit of one's own pleasure, and to open oneself to the other, to mutual aid and to self-giving." (It assumes that pursuing one's own pleasure is wrong.) The *Catechism* recognizes that some people are perplexed by the Church's "unequivocal insistence" on such things as the indissolubility of the marriage bond. Nevertheless, it claims the "Church does not have the power to contravene" the "disposition of divine wisdom" ([19], #11, 1602, 1605, 1609, 1615, 1640).

The Catechism urges spouses to understand that they are "cooperating with the love of God the Creator and are, in a certain sense, its interpreters" ([20], #2367–70). This continues one of John Paul'II most significant theological changes. The spouses' interpretation, however, would not be responsible if they thought it might be permissible to take an action that would make conception impossible. Unfortunately, the ready identification of God with biological nature but not with human ingenuity was becoming less plausible as contemporary medicine made ever greater alterations in human life.

The *Catechism* exhorts people to "acknowledge and accept" their sexual identity, which includes "physical, moral, and spiritual *difference* and *complementarity*." The *Catechism* updates the traditional description of chastity. The first aspect of chastity is what traditionally was called temperance. The *Catechism* calls it the "integrity of the person" and describes it as "self-mastery." It acknowledges that there are "stages of life," and draws from this that one should never consider self-mastery to be fully acquired. The second aspect is described in a neologism, "the integrality of the gift," which is a new name for love of another ([21], #2332–2333. 2338, 2342, 2346). Its importance is that chastity, unlike its presentation in much of the tradition, now includes more than self-regulation. It also includes how one sexually relates to others.

The *Catechism*, as one might expect, proscribes a list of sexual sins. Masturbation, fornication, and pornography are wrong since they seek pleasure outside the marital relationship. Prostitution violates both the dignity of the prostitute and the virtue of the one who pays for sex. The *Catechism* recognizes that a homosexual orientation is not chosen. Still homosexual acts are contrary to the natural law since they do not proceed from sexual complementarity and since they "close the sexual act to the gift of life" ([22], #2351–2355, 2357). The first reason given is simply a description of homosexuality, but it implicitly presupposes the normativity of dimorphic complementarity. The second charge is less clear, since homosexuals directly neither physically nor psychologically close sex to fertility; rather they practice sexual activity that, de facto, is not fertile and so their acts are not completely different from what infertile heterosexuals do.

The *Catechism* bans the use of reproductive technology because such interventions "infringe the child's right to be born of a father and mother known to him and bound to each other by marriage. These medical practices betray the spouses' right to become a father and a mother only through each other'" ([23], #2376). Apart from the appearance that these two rights seem to have been invented after the fact for the purpose of proscribing the new technologies, the difficulty remains that the "child" who would exercise this right would never come to existence. Nor would the spouses who exercised this right ever become parents. Indeed, by these criteria, adoption would be proscribed.

Lastly, the *Catechism* says that attempting divorce is a grave offense: "It claims to break the contract, to which the spouses freely consented, to live with each other till death." That point notwithstanding, the text then says that separation, in which the spouses also do not "live with each other till death," can be legitimate. Similarly, the *Catechism* requires a polygamist to "repudiate one or more wives with whom he has shared years of conjugal life." But then it adds, the polygamist "has a grave duty in justice to honor the obligations contracted in regard to his former wives" ([24], #1649, 2383–84, 2387). Those very obligations, however, previously included living sexually with such wives until death. These two contradictory points are minor in the large scheme of marital theology discussed in this essay; raising them, however, calls attention to the reality that complications abound in marital lives. In allowing for "separation" and in insisting on justice for former wives, the Church rightly accommodated reality.

Lest there be further disjunction between the Church and the experience of the people of God, the Church may have to accommodate further revisions to meet new realities in the twenty-first century. Some theologians, for example, have argued that it is morally wrong to break the marital promise of life-long fidelity. But this sin, like other sins, can be forgiven. They hold that divorce is a moral wrong, to be repented and reversed where humanly possible, but not an ontological impossibility.

7. Conclusion

In his "Letter to Families," John Paul II acknowledged that the Church's teaching alienates people. He wrote:

The Church's Magisterium is often chided for being behind the times and closed to the promptings of the spirit of modern times, and for promoting a course of action which is harmful to humanity, and indeed to the Church herself. By obstinately holding to her own positions, it is said, the Church will end up losing popularity, and more and more believers will turn away from her ([25], #12).

These are serious charges. The Church does not adequately respond by repeating ideas that no longer compel assent. At some point, Haidt's observation that the tendency to find or create reasons to justify prior intuitions breaks down. Cognitive dissonance sets in. Then new intuitions about the meaning of sexuality may supplant the older intuitions.

Speaking in a very different context, Pope Benedict XVI wrote in *Spes salvi* that "every generation has the task of engaging anew in the arduous search for the right way to order human affairs; this task is never simply completed. Yet every generation must also make its own contribution to establishing convincing structures of freedom and of good" ([26], #25). The popes of the twentieth century have engaged in this arduous search. But many of the people of God have not been convinced by the results. To them the absolutisms the Church claims for marriage too often do not promote freedom and the good of persons. Unfortunately, many have drifted away or even deliberately stomped out of Catholicism. Unfortunate too is that many more no longer pay heed to the Magisterium's statements on sexuality. Perhaps some will take heart in the recent letter by Pope Francis, ([27], #301), in which he writes, concerning second marriages, "it can no longer be said..."

Our current culture should hardly be fully embraced. The contemporary loss of a concern for authority, loyalty, and the sacred has opened the door to severe problems. Current cultural patterns of sexual activity underscore the danger of

forgetting the older, negative concerns about the hazards of sexuality and the need for a communal ethic. In the current "hook-up" era, among 18–23 year old, non-married Americans, 71% have had oral sex and 73% have had sexual intercourse. In the twenty-first century, "the average age for both first oral sex and first sexual intercourse is 16 years old" ([28], p. 149, 153). Unwed mothers account for over 40% of births ([29], p. 1). Further, in the past 20 years, the percentage of people in the United States who think children are very important to marriage has declined by over 35%; and approximately 20% of women who reach menopause remain childless ([30], p. 3). The pendulum is swinging nearer to the other end. As is almost always true, older understandings of the dangers and problems involved in sexuality, based also on human experience, had considerable purchase on the truth.

Haidt's conservative triad of sacredness, authority, and loyalty, in addition to promoting needless taboos, denigrating women, and fostering haphazard procreation, also imparted a sense of humanity to sexual activity. There is something about the "sacredness" of sexuality that is being lost. The loss of any cultural, legal, or ecclesial authority in sexual matters—authority at least in the sense of credible teaching and teachers—leaves people without adequate guidelines for sexual activity. The loss of an appropriate loyalty to one's sexual partner appears in uncommitted sexual activity, adultery, divorce, and single-parent children. The pendulum should oscillate nearer to the middle of its arc.

Vatican II said that the Church "requires special help, particularly in our day, when things are changing very rapidly and the ways of thinking are exceedingly various. She must rely on those who live in the world" ([31], #44). In the twentieth century, the Church did rely on those married people who experienced that sexuality is good and that love is part of both sexuality and marriage. Doing so had the unexpected consequence of opening the understanding that there is a spousal love, expressed sexually, that was worthy in itself whether or not it produced children. Once the Church accepted that infertile spouses could engage in love-making without the possibility of baby-making, the next question was whether one could deliberately make procreation unlikely or impossible. This became more and more plausible at least in those cases where strictly adhering to biological "nature" seemed unloving because it threatened harm to spouses, to other children, to the marriage union itself, or to the common good. Further, after the Church had reworked the foundations for its sexual morality, it appeared to many of the people of God that there should be a similar reformation of several sexual norms.

Many of the "people of God," in concert with their non-Catholic counterparts with whom they shared in various other communities, began that reformation. They adapted and changed various norms in light of their actual personal, interpersonal, and social lives. They seem to have turned to what the Congregation for the Doctrine of the Faith recently said is the genius of women, namely, "A sense and a respect for what is concrete develop in her, opposed to abstractions which are so often fatal for the existence of individuals and society" ([32], #13). In the twenty-first century, with the rise of the Church's appreciation for women's dignity, this respect for the concrete continues to motivate the search for a better marital morality.

The present century has led to even more radical changes in the sexual mores of the West, but that is a tale for another occasion.

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