



PADDINGTON UNITING CHURCH

Committee Secretary
Senate Legal and Constitutional Committee
By email to LegCon.Sen@aph.gov.au

10 May 2012

Dear members of the Committee,

We write to respond to a Question on Notice from Senator Birmingham, asked during our evidence at the Sydney hearing of the Committee Inquiry into the *Marriage Equality Amendment Bill 2010*.

Senator Birmingham asked:

Senator BIRMINGHAM: I will ask one question on notice. Most of you heard the evidence of the previous groups who appeared before us. There was much faith put on the role of procreation and children in that evidence. I invite you to take on notice and come back to the committee with your interpretations, as fellow people of faith, of the arguments that were put and I guess whether you have counter arguments to those statements about the particular role of procreation in marriage.

In considering our answer, we have read through the transcript of the evidence given by the four religious organisations that appeared before us in Sydney on Monday afternoon, as well as their original written submissions.

We understand the question is referring to three arguments made by the Australian Catholic Bishops Conference (ACBC) and Cardinal George Pell, put by Mr Chris Meney and Ms Mary Joseph at the hearing, and the Assembly of Confessing Congregations of the Uniting Church in Australia (ACC), put by Rev Dr Max Champion at the hearing.

1. that marriage has an “inherent procreative dimension” (ACBC and ACC)
2. that children raised by lesbian or gay parents suffer from a “social deficit” (ACC)
3. that changing the definition of marriage to remove the procreative dimension would cause confusion to those already married (ACBC).

To answer each argument we quote the relevant excerpt from the Hansard proof for Thursday 3 May available on the Parliament website, and then make our response.

1. That marriage has an inherent procreative dimension

Mr MENEY: Marriage is a union that is publicly recognised and treated as special, distinguished from other types of relationships because of its unique capacity to generate children and to meet children's deepest needs for the love and attachment of both their father and their mother. By contrast, although the community formed by a homosexual couple may involve genuine caring, affection and commitment to each other, it is not an inherently procreative community because their sexual relationship is not designed to generate children. Marriage is not simply a loving, committed relationship between two people but a unique kind



of physical and emotional union which is open to the possibility of new life. As Cardinal Pell states in his submission to this inquiry:

“The definition of marriage as an inherently procreative community does not exclude heterosexual married couples who cannot have children for reasons of age or infertility. They are still married, because their sexual union is naturally designed to give life, even if it cannot give life at a particular point in time or ever. Marriage between a man and a woman always has an inherent capacity for, and orientation towards, the generation of children, whether that capacity is actualized or not.”

Rev Dr Champion: ... marriage is a special covenant intended to be a faithful, lifelong union between a man and a woman expressed in their lives together to [sic] seeks to encourage and enrich their union, provide a sexual union to express their mutual delight, strengthen their lives and also create the possibility of children being born—all those things together—thus providing a firm foundation for society. [see also his comment under point 2].

Response

With all due respect to Cardinal Pell, his argument is illogical. It is simply meaningless to describe a sexual union between two people who are infertile due to age or other causes as possessing “an inherent capacity for, and orientation towards, the generation of children”. Nor can it be said that they are “naturally designed to give life”. Indeed, our biological makeup “naturally designs” us to be infertile after a certain age. It is the combination of (functioning) sperm and eggs that enables procreation, not a penis and a vagina.

It is also true that many non-marriage heterosexual relationships are “open to new life”, and many also lead to procreation unintentionally. This does not seem to fit with Mr Meney’s argument about marriage’s “unique capacity to generate children”. The converse is also true: many married couples today are simply choosing not to have children, for a range of reasons.

Lastly, thanks to modern technology same-sex couples are now able to have children through IVF or surrogacy, and this is legal in most states and territories in Australia. Others are adopting children. In other words, same-sex couples are *already* having children. Marriage would provide a mechanism for this family unit to be publicly marked and supported.

It may be helpful to consider the Catholic argument in its own context. Under Catholic doctrine, marriage is the only legitimate place for sexual activity, and all sexual activity must remain open to procreation. Indeed, the latter value is so strong that it leads to problematic outcomes, such as the Vatican’s strong opposition to the use of condoms by married couples even when one partner has HIV/AIDS. It also explains (in part) their opposition to IVF, even for heterosexual married couples. Within a Catholic worldview, these views perhaps make sense, and certainly form a consistent whole. However we submit that neither of these views are held by the vast majority of Australian citizens, and indeed it would appear by most faithful Catholics. Certainly they are not supported by existing Commonwealth and State legislation and policies concerning relationships or sexual activity.

Perhaps more pertinently to the Committee, marriage under civil law does not contain an inherent procreative dimension. Nowhere in the legal prescriptions about vows and statements of intent are children mentioned. Under civil law, marriage is simply “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”

It is worth noting here Rabbi Gutnick’s comments at the same hearing that Jewish thinking does not hold the primary importance of children in marriage. Neither the Biblical understanding of marriage nor the written history found in the Hebrew Scriptures suggest a marriage must or even should be about children. Indeed, marriages that prove infertile are

never considered somehow void, even as the pain of infertility is emphasised repeatedly. In other words, the idea that marriage even within the Judaic-Christian worldview holds to the primacy of procreation is erroneous.

Our understanding of marriage has changed over time, even within Judaism and Christianity. The Bible mentions polygamous marriages, the purchase (through labour) of wives, widows becoming wives to their brothers-in-law, and other practices we no longer consider acceptable. There is also no evidence of Christian marriage rites until the 9th CE, which means that an articulated theology and practice had not developed. After Christian rites of marriage were developed, changes continued, including the Elizabethan shift from marriage as a property transaction to one of mutual affection. None of these frames mention the primacy of children, but all have the sense of shared property and what we know as family, embodied in the bonds of love and commitment, and hopefully then a safe place for any dependants to grow up in. In some parts of Christendom, inter-racial marriage was banned for a long time because it “offended natural law”. Some Christian denominations in various parts of the world now celebrate same-sex marriages. In short, the Christian ‘theology of marriage’ is not fixed, and not universally agreed.

2. that children raised by lesbian or gay parents have a “social deficit”

Rev. Dr Champion: There are a lot of breakdown [sic] in relationships when children do not know or are not raised by their biological parents, a father and mother. We know this through the stolen generations who were cut off from parents. We know this from children being put in institutions. We know it by what happens to people who unfortunately have to be taken away for foster care when things have gone wrong in a family. We know all those things. Why would we start out and put within the definition of marriage one of the social deficits that is created in so many other parts of our society by saying that we are not going to start with a procreative unit?

Response

...

Rather than respond in detail, we point the Committee to the powerful evidence provided by the Australian Psychological Society in their submission and their verbal evidence at the hearing in Melbourne on 4 May 2012, to the clear effect that children’s outcomes in families parented by lesbian and gay parents “are at least as favourable as those in families of heterosexual parents.”¹

3. that changing the definition of marriage to remove the procreative dimension would cause confusion to those already married

Mr MENEY: ... if marriage as traditionally understood is essentially a procreative union, the notion of sexual intimacy is foundational for it. But if we strip marriage of the procreative

¹ The literature review from 2008 to which they referred for the above statement, but do not appear to have provided in their submission, is available online at <http://www.psychology.org.au/Assets/Files/LGBT-Families-Lit-Review.pdf>

dimension we make the whole understanding of marriage very difficult to discern, increasingly so in the wider community.

[and]

Mr MENEY: Certainly any change to the understanding of marriage would undermine a person's own marriage in terms of what they had signed up to originally within the community and all that that meant. It would lead to some level of confusion as to how people interpreted various sorts of relationships and marriage situations.

Response

It is not clear why Mr Meney thinks heterosexual married couples will become confused about their own relationships if same-sex couples are allowed to marry. He has provided no evidence that this is occurring in those jurisdictions that do allow same-sex couples to marry. The initial statement by Justin Whelan at the hearing on 3 May specifically addressed the idea that loving, committed same-sex relationships somehow confuse or undermine heterosexual marriages, providing instead personal experience of how such relationships can and do enhance heterosexual marriages. It seems to us that such mutual reinforcement would only increase if same-sex couples are allowed to marry.

If married people are confused about the meaning of their marriage today, it is because of the celebration of consumptive relationships, absurdly short-lived marriages and a culture that values excitement over fidelity to the old in all areas of life.

Concluding Comments

Paddington Uniting Church remains committed to supporting people of all sexual orientations and their efforts to maintain healthy, respectful and life-giving relationships. We strongly believe on both theological and public policy grounds that marriage equality is a social good and worthy of the Parliament's support.

. . .

While appreciating that our view is not that of the Uniting Church in Australia, we are aware of a very strong and increasing tide of support within our denomination for a change in policy. We have been heartened by the support we have received from other members of the Uniting Church and other denominations indicating that we are not a lone voice but instead represent a significant group of people within the Christian community.

We thank the Committee for your consideration of our submission and the invitation to speak on this important topic, and for the opportunity to respond in detail to the question from Senator Birmingham.

Yours sincerely,

Reverend Ben Gilmour
Minister

Justin Whelan
Mission Development Manager