



AUSTRALIAN FAMILY ASSOCIATION

South Australian Branch

26 August 2009

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Inquiry into the Marriage Equality Amendment Bill 2009

The Australian Family Association (AFA) supports the definition of Marriage in Australia as ‘the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.’

The AFA actively supported the amendment bill which inserted this definition into the Federal Marriage Act in 2004. This created nothing new as this phrase was, and remains, the common law definition.

This, we believe, is an important point: the definition of Marriage remains constant precisely because the institution itself is and should remain unchangeable.

The Bill

The Marriage Act 1961 is not a discriminatory document in the sense described by Senator Hanson-Young. Certainly it reserves Marriage to a particular relationship, but that fact, in and of itself, is no proof of a need for change.

The claim that this amendment bill is needed to ‘ensure that freedom of sexuality and gender identity are recognised as fundamental human rights’ is patently false. There is nothing in the amendment bill that creates such assurances. Such freedoms already exist; ‘genuine social justice and equality’ is neither about sameness nor the kind of homogeneity that would render Marriage as a formal relationship between any two people.

About Marriage

The institution of Marriage precedes the state, as does the family based upon that Marriage – that first and most essential society.

**PO Box 460
Fullarton SA 5063
Ph: (08) 8379 0246
Fax: (08) 8379 9206
nccafa@chariot.net.au**

The state has a valid interest only in the public goods of Marriage. Such goods include the raising of children, good order and the long term regeneration of society. The public declaration of a Marriage binds society and the state to actively support this intention.

And so, every state functioning properly under the rule of law and good government, has sought to formally recognise Marriage to protect and foster the common good. In defining who can and cannot marry, the state simply codifies the wisdom of the ages for the sake of good order. It does not create anything of itself; it does not seek to change or redefine Marriage.

The current debate

In that context we claim that the state has no right to alter Marriage because it did not create Marriage. The fact that Marriage has been codified and is regulated by law is not and should never be taken to mean that the institution of Marriage is subject to change within the law.

What is being seen by some as discrimination in a pejorative sense and an exclusion of same-sex attracted persons from Marriage is in fact nothing of the sort. The Marriage Act simply reflects the unalterable nature of the institution. Its design and principal intention is to protect Marriage because of its public goods and not to exclude others; even though this is an unavoidable consequence. There are, therefore, no genuine human rights implications for the existence of such exclusion.

Opinion Polls

Questionable recent polls suggest that a majority of Australians support same-sex marriage. These aspirations are based upon the fulfillment of emotional needs and, even if genuine, relate to private goods for which the state has no interest. As we have already said, the state's interest in Marriage is solely concerned with the public goods that underpin the preservation of a functioning society. The state has no formal interest in the private emotional needs of its citizens.

What the polling does make abundantly clear is the general lack of understanding about the public dimension of Marriage. Sound Marriages and stable families, by every measure, produce happier, healthier and more socially connected citizens. Children raised in stable families with their natural parents are less likely to become involved in drug taking and other high risk behaviours and fare better on every social score. It is logical, therefore, that good government should include public policies that support Marriage and the family and actively promote educational initiatives that recognise the value of the institution.

In summary, what public opinion polls actually reveal is a need to raise the bar in how we publicly celebrate and endorse Marriage in its traditional form and is not ipso facto a call for change.

Paul Russell

State Vice-President

Jerome Appleby BA LLB

State Officer

**PO Box 460
Fullarton SA 5063
Ph: (08) 8379 0246
Fax: (08) 8379 9206
nccafa@chariot.net.au**
