

# Pitt Street Uniting Church

A Congregation of the Uniting Church in Australia

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Mr Peter Hallahan  
Secretary  
Senate Committee on Legal and Constitutional Affairs  
Parliament of Australia  
CANBERRA ACT 2600



22 September 2009

Dear Secretary

## RE: SENATE INQUIRY INTO MARRIAGE EQUALITY

I am writing concerning the above inquiry being conducted by the Senate. I apologise for the late submission but hope that the Committee might still receive it.<sup>1</sup>

In addition to being a Minister of the Word of the Uniting Church in Australia,

I am a registered person for the purpose of performing and certifying marriages and have done so on a regular basis for the past 28 years, Registration number N19194. It has been a privilege to counsel and support couples who have sought to make a commitment to each other through the institution of marriage, with the blessing of the Church and the invocation of God's love and support.

I have reached the conclusion that there would be no harm, and some public good, to be served by making the institution of marriage available to those lesbian and gay couples who might seek to be married. There are three main reasons which have affected my thinking on this. They can be categorized in terms of:

- (1) moral reasoning;
- (2) pastoral care; and
- (3) public policy.

**First, I commence with Christian moral reasoning.**

Within the Christian Churches worldwide there has been much reconsideration concerning the moral status of homosexuality.<sup>ii</sup> Consensus has not been reached but there is a growing view that a homosexual relationship might be morally justified for Christians and might even constitute a moral good, when that is the natural orientation for the individuals involved.<sup>iii</sup> This is a new question and one which the Scripture writers and interpreters of Tradition may not have been aware of let alone understood. The Uniting Church in Australia has taken a leading role in this international discussion and re-consideration and is now looked to for guidance from partner churches in Asia and the Pacific.<sup>iv</sup>

It is still not well known that the word "homosexual" was coined by a Hungarian medical practitioner in 1857, thus beginning to change the ways in which medicine, science, religion and the law understands human sexuality including homosexuality.<sup>v</sup> Prior to that nosological innovation, moral reasoning (in theology and philosophy) was informed by a view that homosexual acts (criminalized in Anglophilia as the "abominable crime of buggery") were performed by otherwise heterosexual persons.<sup>vi</sup> As such, the actions and those committing them would morally be regarded as "against nature".

This medical development has enabled scholars to make a distinction between genital sexual behavior and gender identity. Since 1955, moral theologians have engaged in a renewed discussion which accepts the recent finding of medicine and science and thus questions traditional biblical hermeneutics, particularly, though not only, St Paul.<sup>vii</sup> Accordingly, it is now clear that Bible writers never addressed the matter of sexual orientation as we now understand that. Further, it is widely agreed that the historical Jesus did not comment on the matter.<sup>viii</sup>

I can advise the Australian Senate that quite a number of the partner churches of the Uniting Church in Australia now authorize clergy to perform same sex marriages or to ritualize a same sex civil union.<sup>ix</sup> This is the case in reformed, evangelical and episcopal churches in Canada, the UK, New Zealand, South Africa and a number of USA States. I regard it only as a matter of time before this happens in Australia.

**Second, I draw on my considerable pastoral experience.**

In my full-time work as a Uniting Church Minister since 1981 I have been privileged to observe the life and relationships of several lesbian and gay couples in a pastoral context. I have no desire to idealise any human arrangement but my observation over many years is that lesbian and gay relationships demonstrate the same qualities, strengths and weaknesses as

heterosexual relationships. To be sure, such relationships may have demonstrated our common frailties. But in my experience they have demonstrated just as much our capacities for mutual care and compassion which are among the ideals which the Commonwealth Marriage Act and relate family law legislation seek to uphold.. The virtues of particular relationships, in my pastoral observation, transcend gender identity.<sup>x</sup>

Therefore, from a pastoral perspective, I do not find it helpful to categorise one form of relationship as being better than the other. The institution of marriage is one way in which church and society can offer practical support to people willing to accept the solemn vows required. Some or even many lesbian and gay people might choose to not be married. That is a decision I would respect but equally see no strong reason to exclude all lesbian and gay couples from the institution of marriage. As a married heterosexual man, my wife (Helen Pearson) and I do not believe that our long-term relationship would be in any way threatened by extending the institution of marriage to lesbian and gay couples.

One aspect of my ministry at Pitt Street includes gay, lesbian, bisexual, transgender and intersex people. Of these, gay and lesbian people are the only classes of people who are denied the rights and responsibilities as stipulated in the Marriage Act.

Within the Reformed and Evangelical traditions there are five policy trends concerning homosexuality. Each trend has some implication for public policy, legislation and administration, and it is for this reason that I present them to the Senate Committee.<sup>xi</sup>

They are:

*Equality* - seen clearly in the United Church of Christ USA and the United Church of Canada. Both have ordained openly lesbian and gay clergy, the former since 1972 and the latter since 1985. In both, qualified individuals may not be excluded solely on the grounds of sexual orientation or involvement in a same-sex relationship. Both denominations have authorised clergy to perform same-sex marriages.

*Diversity* - the Uniting Church in Australia is perhaps the best example of this national policy, where the congregation and the Presbytery (the regional episcopal body) make decisions concerning membership and ordination in individual cases. There is no binding or guiding national doctrine. Some Uniting Church clergy do celebrate gay and lesbian relationships in appropriate worship services.

*Conditional Support*- gay and lesbian people are welcome, as members and ordained persons, provided that they adhere to the standard of "celibacy in

singleness and fidelity in (heterosexual) marriage". This is the national policy of the Presbyterian Church USA and the United Methodist Church USA.

*Moratorium* - after an initial position of diversity, the United Reformed Church in the UK adopted a seven year moratorium on any decisions concerning ordination of lesbian and gay persons.

*Separatism* - the Universal Fellowship of Metropolitan Community Churches (UFMCC) was established as a separate denomination in 1968 to respond to the needs of gay and lesbian people (and others) who believe they can no longer remain in their own denomination. Since inception MCCs have offered "Holy Unions" for same-sex couples, which would be widely regarded as a marriage service (legality aside). What they indicate is that there are many in the lesbian and gay communities who seek wider recognition for their committed relationships.

**Third, I refer to principles of public policy and administration as informed by Christian principles.**

My thinking is influenced by principles of common or natural justice, mostly clearly articulated by St Thomas Aquinas. In Christian terms this is usually described in terms of natural law or natural theology.<sup>xii</sup> What are the reasons why a social institution should be denied to an entire class of Australian citizens, in this case lesbian and gay persons who might elect to be married? I supported decisions of the Australian Parliament in late 2008 to remove numerous forms of discrimination against lesbian and gay persons,<sup>xiii</sup> and would see inclusive changes to the Marriage Act in the same light. (A copy of the 2007 submission is attached. It includes input from Christian gay and lesbian people.)

Society is moving at a rapid pace of change in regard to legislation for and the regulation of same-sex relationships. The changes commenced with a breaking down of stereotypes about homosexuality, and the appropriate role of the criminal law.<sup>xiv</sup> This does not require the Church or State and national legislatures to follow, but does call for a well-informed and reasoned discussion.

There are two distinct but related movements in civil society. A number of jurisdictions (Canada, Netherlands, Spain, Belgium, Denmark, South Africa, and some States in the USA) have taken the most direct legislative route. They have decreed that marriage shall be the lifelong, faithful union of one person with another person.

A number of other countries and jurisdictions have, for varying reasons, followed a different path. The UK and New Zealand have enacted statutory provisions for civil unions, which provide comparable rights and entitlements for same-sex couples with married couples. In the case of New Zealand, one of the Uniting Church's partner churches, the Methodist Church of NZ, has

authorized clergy to solemnize civil unions, and, where appropriate, for the clergy person to be a partner in such a union.

Following a Human Rights and Equal Opportunity Commission (HREOC) report, in late 2008 the Australian Parliament amended nearly one hundred pieces of national legislation which discriminated against same-sex couples. This was an essential and valuable practical reform, and undoubtedly lays the ground for increased civil recognition.

To exclude an entire class of persons from permissive acts of statutory legislation (for example, the Marriage Act), or non-statutory public administrative decrees (for example those recently changed with regard to social security provisions for same gender couples) would require the empirical demonstration of proportionate harm to the wider community.<sup>xv</sup> I remain to be convinced that the commonwealth would be in any way harmed if the national legislature were to amend laws to effectively make marriage in Australia inclusive, that is, a gender neutral institution.

It might be argued, in terms of the common good, that the addition of a class of eligible persons might actually strengthen the somewhat diminishing robustness of the institution of marriage in Australian society,

With best wishes to the Committee as the Inquiry concludes and a report to the Senate is made.

Feel free to contact me if I can provide any further information.

Yours sincerely



Rev Ian Pearson  
Minister  
Pitt Street Congregation  
UNITING CHURCH IN AUSTRALIA

Copy to:

Mr B Skerman, Chairperson, Church Council, Pitt Street Uniting Church;

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- <sup>i</sup> Research assistance by Warren Talbot is noted.
- <sup>ii</sup> Changes have been made within the Reformed and Evangelical Churches. For a summary see Andrew Thornleigh, National Working Group on Doctrine, Uniting Church in Australia, [www.nat.uca.org.au](http://www.nat.uca.org.au).
- <sup>iii</sup> Several Uniting Church studies have supported this conclusion. See Gordon Dicker, Chairperson, *Homosexuality and the Church*, Melbourne, Uniting Church Press, 1985; Alistair McRae, Chairperson, *Uniting Faith and Sexuality*, Sydney, Uniting Church Assembly, 1997; and Warren Talbot (Ed.) *Affirming Faith and Sexuality*, Melbourne, Uniting Church Division of Social Justice, 1984.
- <sup>iv</sup> Assembly Task Group on Sexuality (ATGS), *Uniting Sexuality and Faith*, Final Report, Melbourne, Uniting Church Press, 1999. See also Uniting Network Australia, "A gay and lesbian basis for acknowledging and celebrating same gender relationships.", *Uniting Network Review*, July 2009.
- <sup>v</sup> Weeks, Jeffrey, *Sexuality*, London, Ellis Horwood Limited and Tavistock Publications, 1986.
- <sup>vi</sup> Weeks, Jeffrey, *Coming Out: Homosexual Politics in Britain from the Nineteenth Century to the Present*, London, Quarter Books, 1990.
- <sup>vii</sup> Bailey, Derwick Sherwin, *Homosexuality and the Western Christian Tradition*, 1955.
- <sup>viii</sup> Boswell, John, *Christianity, Social Tolerance and Homosexuality*, Boston, Beacon Press, 1980.
- <sup>ix</sup> Source: Revd N Reid, Conversation with J Rea, J Oldmeadow and W Talbot, August 2009, reporting on decisions of the New Zealand Methodist Church following the passage of Civil Union legislation in New Zealand.
- <sup>x</sup> I prefer to use the phrase "gender identity" because I think provides an accurate focus and does not define lesbian and gay couples solely in terms of their genital sexual proclivities.
- <sup>xi</sup> Based on Warren Talbot, Liturgical Recognition of same sex relationships, unpublished discussion paper, Worship Committee, Pitt Street Uniting Church, April 2009.
- <sup>xii</sup> Haring, Bernard, *Moral Theology*, London, DLT Press, 1966.
- <sup>xiii</sup> See Ian Pearson, and Elizabeth Teece, Submission to the (then) Human Rights and Equal Opportunity Commission, July 2008.
- <sup>xiv</sup> Homosexual Law Reform Coalition, *Myth and Facts about Homosexuality: A Submission Relating to the passage of the Crimes (Sexual Offences Act)*, Fitzroy, Jamie Gardiner, 1980.
- <sup>xv</sup> The classic account of proportionality is in the *Summa Theologica* of Saint Thomas, most recently summarized and documented in Karl Rahner, *Theological Investigations*, London, DLT, 1961.