



Australian Christian Lobby
21.8.14

Simon Corbell MLA

ATTORNEY-GENERAL
MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
MINISTER FOR POLICE AND EMERGENCY SERVICES
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO

Mr Lyle Shelton
Managing Director
Australian Christian Lobby
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Dear Mr Shelton

Thank you for your correspondence forwarding a letter signed by 13 Canberra church leaders regarding the *Marriage Equality (Same Sex) Act 2013*. I note that you have attached an opinion written by Neville Rochow SC and Christopher Brohier. Thank you for forwarding this opinion that was provided to the Australian Christian Lobby.

As a member of the elected Government, I have a responsibility to ensure that all members of our community are treated with respect, dignity, and equality before the law. The Marriage Equality (Same Sex) Act recognises the dignity and equality of all members of the community.

In the letter attached to your correspondence, it is alleged that the Marriage Equality (Same Sex) Act was introduced without community consultation. I can assure you that it was introduced after very careful and lengthy consideration. Legislating for marriage equality is central to this Government's policy position. In October last year, as a part of our election platform, this Government committed to legislate for same sex marriage. In June this year the Government agreed to continue its human rights and legislative reform program with the drafting of a new law for full marriage equality in the Territory. Our Government has been open and vocal about our commitment to reform, equality and fairness, underpinned by the principled belief that human rights are central to a civilised and just society. Given that the Act has been notified, referral to a standing committee of the Legislative Assembly is no longer appropriate.

The letter also expresses concern about the Constitutional validity of the Marriage Equality (Same Sex) Act. As you would now know, the Commonwealth Government is challenging the constitutional validity of the marriage equality legislation, it would not be appropriate for me to make further comment at this time.

I note your concerns in relation to social justice implications for children. The Marriage Equality (Same Sex) Act does not affect the rights of the child, except to remove discrimination of children who are already being raised by same sex partners.

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100
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Section 11 of the ACT *Human Rights Act 2004* adopts article 23 of the International Covenant on Civil and Political Rights (ICCPR) which acknowledges that the family is the natural and basic unit of society and is entitled to be protected by society. There is no fixed definition of what constitutes a family, but Governments must provide the same protections to all families whether or not the partners in the family are married. The ACT *Adoption Act 1993* does not discriminate between the sexes of people in committed relationships who can adopt children, provided such couples, including same sex couples can demonstrate their suitability to care for the child. In all such decisions the best interests of the child are the paramount consideration. I do not believe that the needs of the children of same-sex partners are undermined or diminished by this legislation. On the contrary, the removal of discrimination against same-sex families reflects the principles listed under the *Human Rights Act 2004*.

The church leaders note that the removal of discrimination should not require the redefinition of marriage, and state that '*the Bill creates significant problems for people in the community who genuinely and in good conscience cannot agree that marriage is anything other than the union of one man and one woman to the exclusion of all other voluntarily entered into for life*'. The Marriage Equality (Same Sex) Act does not in any way alter the definition of marriage under the Commonwealth *Marriage Act 1961*. Any marriage solemnised and recognised in accordance with the Commonwealth Act remains unaffected by ACT law.

I also do not believe that this law creates significant problems for those in the community who are opposed to it. The Marriage Equality (Same Sex) Act establishes processes for the solemnisation of marriages between two people who are unable to be married under the Commonwealth *Marriage Act 1961*. The ACT legislation will operate side-by-side with the Commonwealth law and will only enhance the recognition of committed relationships in the Territory. Australian Bureau of Statistics data shows that of the 121,000 marriages registered in Australia in 2010, 69% were conducted by a civil celebrant. The Marriage Equality (Same Sex) Act reflects the distinction between marriage as a religious sacrament and marriage as a civil institution, and as such it recognises that the social meaning of marriage has changed over time.

The Marriage Equality (Same Sex) Act will not erode over time any person's rights to speak about and discuss marriage as defined in the Commonwealth *Marriage Act 1961*. Nor will it prevent religious freedom or introduce vulnerabilities for freedom of expression, conscience, religion or belief. These rights are enshrined in the ACT *Human Rights Act 2004*, and the Government has carefully considered the Marriage Equality (Same Sex) Act against them. It is the view of the ACT Government that there is no impact on the churches in the ACT, because the Act does not redefine marriage or compel religious ministers to register as a celebrant authorised to solemnise marriages under the Act, including same sex marriages. There is also no legal requirement that churches make available their places of worship for the solemnisation of a marriage that is not in accordance with their conscience. There will be no sanctions for people who simply do not agree with the Act.

However, any right to express contrary opinions is balanced under sections 7 and 20 of the *Discrimination Act 1991* (ACT). It would be unlawful for those who provide goods, services and facilities in the wedding industry to discriminate against another person on the basis of their sexuality or their relationship status. This includes discrimination by refusing to provide or make available those goods, services or facilities. Australians are free to express contrary views as the church leaders and the Australian Christian Lobby has done, provided they do so within the law. ✧

For example, under section 66 of the *Discrimination Act 1991* it is unlawful for a person, by a public act, to incite hatred towards, or serious contempt for or severe ridicule of a person on the ground of sexuality. ACT legislation reflects the Government's steadfast commitment to the principle that all people are entitled to respect, dignity, the right to participate in society, and to receive the full protection of the law, regardless of sexual orientation.

I am confident that most Canberrans would agree that giving everyone the opportunity to demonstrate their love and commitment in a relationship solemnised as a marriage is fair, reasonable, and the right thing to do.

Thank you for raising your concerns with me and taking part in this important debate.

Yours sincerely

Simon Corbell MLA
Attorney-General

21.11.15