

THE CONSTITUTION AND DEFINITION OF MARRIAGE: WHAT TYPE OF FRUIT IS THE LIVING TREE PRODUCING?

The Supreme Court ruled that it is in the federal government's jurisdiction to propose legislation that redefines the definition of civil marriage but didn't go so far as to say specifically that the heterosexual definition of marriage is unconstitutional. To appease some fears, the Court gave a strong assurance that the right to freedom of religion will be protected but did say that the solemnization of marriage is wholly in the jurisdiction of the provinces. While the Court may have made these strong assurances, given the current political climate, Canadians have every right to be skeptical of just where the line will be drawn.

Marriage in its traditional definition has been an ancient institution that has served mankind since the beginning of human civilization. In Canada, the principle of marriage between one man and one woman has been the essential building block of the family and society as a whole for successive generations. The Supreme Court in its decision referred to the case of Hyde vs. Hyde (1866) when the traditional institution of marriage was defined at that time. The judge in the Hyde case ruled as follows: "What, then, is the nature of this institution as understood in Christendom? Its incidents may vary in different countries, but what are its essential elements and invariable features? If it be of common acceptance and existence, it must need (however varied in different countries in its minor incidents) have some pervading identity in a universal bias.



I conceive that marriage, as understood in Christendom, may for this purpose be defined as the voluntary union for life of one man and one woman, to the exclusion of all others."

The Supreme Court in its ruling stated the following in reference to the 1866 decision: "The reference to "Christendom" is telling. Hyde spoke to a society of shared social values where marriage and religion were thought to be inseparable. This is no longer the case. Canada is a pluralistic society.

Marriage, from the perspective of the state, is a civil institution. The "frozen concepts" reasoning runs contrary to one of the most fundamental principles of Canadian constitutional interpretation: that our Constitution is a living tree which, by way of progressive interpretation, accommodates and addresses the realities of

modern life."

Our nation has reached a critical crossroad. A decision will be made and a consequence will follow. The Supreme Court has not explicitly ruled that the traditional definition of marriage is unconstitutional, and so the issue is not yet settled. At this time it would be appropriate to shift the debate to the arena of public opinion. We live in a democratic nation and our government and courts need to listen to the voice of the people. It's up to the public now to mobilize, take a stand, and ensure that M.P's are elected to reflect their point of view. Let's rally and make our voices heard.

Should the courts have the right to decide the definition of marriage? Yes _____ No _____

Should parliament have the right to decide the definition of marriage? Yes _____ No _____

Should the people of Canada have the right to decide the definition of marriage? Yes _____ No _____

Response and comments attached to questions raised with respect to agriculture. Yes _____ No _____

Please note any brief comments or suggestions below:
