

Bruce J. Clemenger, president of The Evangelical Fellowship of Canada, was asked by abOUT: the Gay Life Magazine to answer two questions that would provide context for an article on the shifting tides within the church regarding same-sex marriage.

The following is what he wrote and submitted on Nov. 21, 2006 to Duane D. Booth, the magazine's editor-in-chief. (The magazine was founded in 2004 and focuses on Southern Ontario and Western New York.)

Why do you consider the debate in Canada on this issue to be insufficient?

First, I welcome the opportunity to respond to the questions about the request to review the redefinition of marriage.

The political debate in Canada and subsequent legislation was, in the vast majority of instances, driven by court decisions and not by legislatures, by judges' interpretation and not by elected officials, by legal argument and not by an interdisciplinary debate. There was a reference case to the Supreme Court of Canada but the Court did not answer the key fourth question which asked whether *The Charter of Rights and Freedoms* requires marriage to be redefined. The Court did ponder what the natural limit of marriage might be but did not answer question four. We don't know what the outcome of a section 1 *Charter* analysis would be.

Lower court rulings did prompt the Justice department to issue a discussion paper outlining various options, and the House of Commons Justice Committee to hold cross-country hearings; but where is the report and what were the conclusions about the options? The Committee reviewed an initial draft report and did not approve it – apparently there was no agreement on the report's conclusions. The same day, the Ontario Court of Appeal issued a decision that redefined marriage in Ontario. Two days later the Justice Committee voted to recommend the federal government not appeal the court's decision; it was a tie vote with the Chair casting the deciding vote prior to the arrival of a Committee member known to oppose the redefinition of marriage. The Committee remained deeply divided and no official report was forthcoming.

The government did introduce legislation but its sole argument was that the redefinition was required by the *Charter*; they did not even attempt to examine and explain the social policy implications of the redefinition – something even the *Globe and Mail* criticized them for.

There was no analysis on the effect of the redefinition on children. A report commissioned by the government of France recommended that marriage not be redefined because of the impact on children. The Canadian government undertook no analysis of the effects of the redefinition of marriage or the recognition of other domestic relationships in European countries that have started down this path. There was no analysis of the consequences of the redefinition on the legal recognition and inclusion in the category of marriage or other types of domestic relationships - along the lines of the

Law Commission of Canada's report titled *Beyond Conjugalilty*. Nor was there any thought given to or consultation with the provinces about the implications of redefining marriage in areas of provincial jurisdiction.

What kind of debate do you propose?

The form of debate we would hope for would be one that: 1. is undertaken with respect and not confined to slogans and circular arguments; 2. is interdisciplinary and explores the various and full potential social consequences of a redefinition of marriage including its impact on marriage, the impact on children, and the consequences for families; 3. would explore various legal and political options; and, 4. would include an examination of the implications, both in terms of law and public policy, for the recognition of other types of domestic relationships.

Discussion of the definition of marriage must take place within a larger examination of the government's role and purpose in recognizing various domestic relationships, its social policy and tax policy regarding families and other domestic relationships, and the implications and consequences of the definition of marriage and legal recognition of various domestic relationships on freedom of religion and conscience in Canada, including religious practice and observance, and education.