

### 3d SUNDAY OF EASTER -- B (April 26, 2009)

It's always fascinating to revisit the life and work of St. Peter. During Jesus' three years of public teaching and ministry, Peter sometimes seemed to have special insight as to what Jesus was about. At other times, however, he was rather slow to catch on. He could be both brave and cowardly--remember at the Last Supper he said he would die for Jesus; but very shortly after, three times he denied even knowing him. Then, after Jesus rose from the dead and sent the Holy Spirit on the apostles, Peter was filled with new courage and boldly preached the gospel of the risen Christ, an example of which we heard in first reading.

The Holy Spirit's work in guiding Peter and other apostles has continued ever since in enabling the Church to proclaim that same gospel and to shine the light of that gospel on the issues that arise throughout history. One of those issues has now come before us in a very direct way. Earlier this month, the Iowa Supreme Court upheld a lower court ruling striking down our state law declaring that a valid marriage can only be between one man and one woman. The Iowa Catholic Conference, headed by our Archbishop Hanus and the three other Catholic bishops of this state, issued a statement in response to this ruling. It's a very good summary of why this decision is wrong and unacceptable on many levels. I invite and encourage you to pick up a copy at the church entrances when you leave.

I have read the Court's opinion (nearly 70 pages worth). In case you are wondering, no--I'm not going to respond to each of the legal arguments (though I'm tempted to do so...). But I do want to take a little time to put this issue in the larger context to help us understand what's going on here. In reading the opinion, one gets the sense the Court sees marriage as something that can be molded or shaped into whatever is desired. But that approach does a breathtaking disservice to the uniquely fundamental reality that marriage is as the oldest human institution in the world. Kingdoms and empires, nations and states have come and gone throughout history, but marriage between a man and a woman has been a constant for the thousands of years of human history.

There are sound and obvious reasons for that. Most fundamentally, it simply recognizes the reality of humanity as male and female. The physical and sexual differences between man and woman are not arbitrary or accidental--they have obvious meaning. Those differences were planned and given by God and are made real in our bodies. And those bodily/sexual differences have everything to do with marriage--what it is and what it means. As the Church summarized in a recent statement: "Marriage is not just any relationship between human beings. It was established by the Creator with its own nature...and purpose...Marriage exists solely between a man and a woman, who by mutual personal gift, proper and exclusive to themselves, tend toward the communion of their persons. In this way they mutually perfect each other, in order to cooperate with God in the procreation and upbringing of new human lives." Those purposes of marriage--strengthening of union between husband and wife and openness to bringing new life into the world when possible--require the physical union of man and woman. Such an attempted union between two men or two women clearly cannot serve those essential purposes; the physical structure of the male and female bodies makes that obvious. That's why the Church cannot support so-called 'same-sex marriage'; such is in fact a contradiction in terms.

The Iowa Court spoke much about how this law discriminates against same-sex couples in violation of their constitutional right to equal protection of the laws. What does 'discriminate' mean? It means to make distinctions, to differentiate between persons or things on one basis or another. Some distinctions or discriminations are in fact unjust. For example, some states used to have laws banning marriage between persons of different races. The purposes of marriage can obviously be lived by a man and woman no matter what their race. But other discriminations or distinctions are simply based in reality and in nature. Our laws, for example, prohibit marriage for persons under a certain age--based on the

common-sense notion that children have neither the physical or emotional maturity to undertake the obligations of marriage. Our laws also say that a person can have only one spouse--surely that discriminates against those who wish to practice polygamy (having more than one spouse). Will the Court next tell us that polygamous marriages must now be allowed? Its reasoning in this case could just as easily be used to justify that result. In any event, marriage as necessarily involving man and woman is one of those distinctions that has been understood and accepted by all the major cultures of the world throughout world history--cultures of all religious backgrounds as well as cultures claiming no religion.

And that point about religion is important. The Court referred to possible religious motivations behind the Iowa law, saying they could not be a basis for denying same-sex marriages. But that ignores the historical fact that marriage as one man/one woman has been the norm across all history and cultures, religious and non-religious. Beyond that, I do not deny at all that there is a religious (in fact, a Judeo-Christian) basis for holding that marriage must involve one man and one woman. Scripture--both Old and New Testaments--and 2000 years of Christian history make that abundantly clear. And we need not and must not deny that religious belief of ours. At one point the Court says that "State government can have no religious views, either directly or indirectly, expressed through its legislation." Surely the Court can't be serious! The State of Iowa, for example, has laws criminalizing murder, theft and perjury. Such laws are based on thousands of years of Judeo-Christian tradition based on "Thou shall not kill...thou shall not steal...thou shall not bear false witness against thy neighbor". Sound familiar? Of course--they are among the Ten Commandments, given by God, found in Sacred Scripture. If those aren't 'religious views...expressed through...legislation', then I don't know what is.

What does this decision mean for the Catholic Church and other churches that do not recognize same-sex marriages? The Court does specifically say that churches cannot be compelled by law to provide for marriages that contradict their teachings; its decision applies only to civil marriages. The Catholic Church will not provide for such marriages--she will not because she cannot. This is not based on any alleged 'homophobia'; the Church could not be more clear about her genuine love for all God's children, including those of same-sex attraction (even as she echoes Jesus' constant call to conversion and holiness of life). Rather, it is based on the nature and purpose of marriage as God has revealed it and as human reason can discern it. And even if the Court had the audacity to say that churches must perform such marriages (or it if would ever do so in the future), neither the Catholic Church in general nor her priests and ministers in particular would do so--regardless of the consequences.

The Iowa Court's decision is such a sad mistake on so many levels--legal, historical and logical as well as moral and spiritual. Like the U.S. Supreme Court in *Roe v. Wade* w/respect to abortion, the Iowa Court has imposed its own judgment on the people of this state, contrary to the law passed by our elected representatives that simply reflected what marriage had always been understood to be. And like the *Roe* Court, our state Court here imposed its own judgment on the basis of an alleged 'right' that finds no support whatever in the actual words of the Constitution. Just as the framers of our nation's constitution could never have suspected its words would be used to find a so-called 'right' to abortion, surely the framers of our state constitution could never have suspected its words would be used to find a so-called 'right' to same-sex marriage.

So where do we go from here? The Iowa Catholic bishops in their statement urge the adoption of an amendment to our state constitution that would overturn the Court's decision. That is a thoroughly legitimate option, one that is provided for in our laws, and it's the only legal option we have at this point. You can be assured that this will be a very prominent issue at the Statehouse in DM in the next few years--don't be afraid to exercise your right to make your voices heard by our public officials.

In today's gospel, the risen Christ appears again to the apostles and reminds them of what he told them

before. He also tells them what they must do now--to be witnesses of those things. As a former employee of the state judicial system (in my pre-seminary legal career), I do not enjoy speaking critically of our state supreme court and I certainly do not wish to alienate anyone by doing so. But supreme courts (national and state) are sometimes wrong in ways that touch on the fundamentals of who and what we are as a people and a nation. And when that's the case, we must be willing to say so and to give the reasons why; we surely have the right to do so. And as I have said before: as a priest of the Catholic Church, I have a sacred obligation--promised on the day I was ordained--to teach and preach the Catholic faith and to witness to that faith by the grace of God. By that same grace and by the power and love of the risen Christ, may God help us all to be genuine witnesses of that faith--whether convenient or inconvenient.