
The Parliament of the Commonwealth of Australia

Advisory report:

Marriage Equality Amendment Bill 2012 and Marriage Amendment Bill 2012

House of Representatives
Standing Committee on Social Policy and Legal Affairs

June 2012
Canberra

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Foreword

“I believe every human being is precious and we are all part of God’s family – and that marriage is a beautiful thing and should not be used as a weapon to promote prejudice.”

David Pocock, Australian Rugby openside flanker,
(*Marie Claire*, July 2012, p. 44)

Wallaby David Pocock is one of the hardest, toughest men currently running around on an Australian paddock. Consequently I was a little taken aback to read his progressive and tolerant approach to marriage equality in *Marie Claire*. Either footy has changed significantly since I played it, or this nation has. And after conducting an inquiry into marriage legislation I now know it is the latter.

Australians have usually been ahead of the rest of the world when it comes to removing discrimination. Initiatives have included providing the vote for women; repealing discriminatory immigration policies; protecting employment for married women; and enabling Indigenous Australians to participate fully in the democracy that had blossomed on their continent.

Reducing discrimination in all its forms is a matter of social justice. All Australians are people worthy of respect, regardless of age, religion, race, sex, gender, sexual orientation, occupation, level of income, abilities, or choice of lifestyle.

In recent times, there has been growing recognition of the discrimination that same-sex couples experience, both socially and legally, as family units. I am proud to have been a part of the Commonwealth Parliament that in 2008 rectified in a bi-partisan way many of the financial disadvantages that same-sex couples endured compared to their opposite-sex de facto and married counterparts. The opportunity to take the step of publicly declaring a couple’s love and commitment by entering into a marriage is the final discriminatory hurdle for same-sex couples. It is unjust that two people who love each other are unable to marry each other

because of their sexual orientation. And I firmly believe that marriage is still the best way to protect committed monogamous relationships.

The key underpinning in any successful relationship is 'love', and love is universal. We all know love, seek love, and give love. We also know what marriage signifies. Marriage is about the love and commitment that two people have for each other. The sexual orientation of the parties to the marriage is not the issue; it is what they pledge to each other in the marriage itself. Today in modern Australia, marriage is a legal status administered by the state. And while many marriages are conducted in accordance with religious rites, the legislation that this report inquired into has no intention to force any religious tradition or institution to include same-sex marriage ceremonies.

The Australian Constitution makes no mention of 'love', but no sane person would dare to suggest we are a nation bereft of this most fundamental of human emotions. (Incidentally, the Constitution makes no mention of 'prime minister' either, but that's a story for another day!) However, s116 of the Constitution does enshrine the protection of Australians to practise their religions without the interference of the state. Any changes to the marriage legislation which was only introduced in 1961 will in no way interfere with the continuation of this religious freedom.

It is important to remember that God did not write the Marriage Act. It is written by lawyers and legislators and must reflect the views and values of today. And every Member of Parliament is charged with the duty of ensuring that our laws best protect the values and beliefs of all of the people we represent.

To achieve this end, I fully support the legalisation of marriage for couples of the same sex and the intent of both the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012. Just as we look back in disbelief to the day in my lifetime when Indigenous Australians could not vote in their own country, or when homosexuality was illegal; it is now time to enact this legislation and raise future generations of children who won't believe that once upon a time same-sex couples in Australia could not marry. The love between same-sex couples is no different to that of opposite-sex couples, and deserves no less the public recognition, celebration and symbolism which the wonderful institution of marriage bestows.

To Members of Parliament, I encourage each of you to read this report before voting on the bills. I appreciate that there are many differences of opinion among us, as there is across the country. However, we have the weighty responsibility of upholding the views of the constituents who elected us to this position. We have a duty to lead as well as represent our constituents and to vote accordingly. I encourage the House of Representatives to remove this final vestige of discrimination against same-sex couples. Should such legislation be challenged, let

us hope that the High Court recognises that the Constitution should not be frozen in the social attitudes of 1901.

I congratulate Mr Adam Bandt on being the first MP to introduce a bill to legalise same-sex marriage in the House of Representatives. I warmly thank him for his contribution to the inquiry as a supplementary member to the Committee. The Committee is honoured to have been part of this important debate, and I thank all the Committee members for their efforts in carefully considering the bills and asking the important questions. Despite a considerable diversity of views among the Committee, I am grateful for the bi-partisan spirit shown in preparing this report to guide and support our strong and independent Parliament.

As Members of Parliament it is now time for you to respond to the growing public support for same-sex marriage and to lead the nation by categorically opposing laws that legitimise discrimination. Government is made up of individual members. You may belong to one party or another, but now is the time for each of you to take a stand. To go against your conscience is neither right nor safe.

Graham Perrett MP
Chair



Membership of the Committee

Chair	Mr Graham Perrett MP
Deputy Chair	Hon. Judi Moylan MP
Members	Mr Shayne Neumann MP
	Ms Laura Smyth MP
	Hon. Dr Sharman Stone MP
	Mr Mike Symon MP
	Mr Ross Vasta MP
Supplementary Member	Mr Adam Bandt MP

Committee Secretariat

Secretary	Dr Anna Dacre
Inquiry Secretary	Ms Natalya Wells
Research Officer	Dr John White
Administrative Officer	Ms Claire Young



Terms of reference

On Thursday 16 February 2012, the House of Representatives Selection Committee asked the Committee to inquire into and report on the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012.



List of abbreviations and acronyms

ACL	Australian Christian Lobby
ACT	Australian Capital Territory
AFA	Australian Family Association
AME	Australian Marriage Equality
G+T	Gilbert + Tobin Centre for Public Law
ICESCR	International Covenant on Economic, Social and Cultural Rights
LCA	Law Council of Australia
LPDM	Lawyers for the Preservation of the Definition of Marriage
PFLAG	Parents and Friends of Lesbians and Gays
the Bandt/Wilkie Bill	Marriage Equality Amendment Bill 2012
the Jones Bill	Marriage Amendment Bill 2012
the Marriage Act	<i>Marriage Act 1961</i> (Cth)

