



AUSTRALIAN SENATE

## LEGAL AND CONSTITUTIONAL

REFERENCES COMMITTEE  
LEGISLATION COMMITTEE

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6 September 2004

Senator the Hon Paul Calvert  
President of the Senate

### INQUIRY INTO THE MARRIAGE LEGISLATION AMENDMENT BILL 2004

#### Background

On 23 June 2004, the Senate referred the Marriage Legislation Amendment Bill 2004 (the Bill) to the Senate Legal and Constitutional Legislation Committee for inquiry and report on 7 October 2004. The Bill proposed to:

- amend the *Marriage Act 1961* to define marriage as the union of a man and a woman to the exclusion of all others, voluntarily entered into for life; and to confirm that unions solemnised overseas between same sex couples will not be recognised as marriages in Australia (Schedule 1); and
- amend the *Family Law Act 1975* to prevent inter-country adoptions by same sex couples under multilateral or bilateral agreements or arrangements (Schedule 2).

A subsequent bill, the Marriage Amendment Bill 2004 (the Second Bill), was introduced, containing Schedule 1 of the Bill (relating to marriage by same-sex couples). The Second Bill was passed by the Senate on 13 August 2004. The earlier Bill remains on the Senate Notice Paper, including Schedule 2 which relates to adoption of children from overseas by same-sex couples.

The effect of the Senate passing the Second Bill was that the Senate indicated that it no longer required the Committee's advice on that part of the original Bill. In the absence of any further direction from the Senate, the Committee was only obliged to report on the remaining part of the Bill, that is, the schedule in relation to adoption by same-sex couples.<sup>1</sup>

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<sup>1</sup> Advice from the Clerk of the Senate to Senator Joseph Ludwig, 4 August 2004.

**Conduct of the inquiry**

The Committee advertised the inquiry in The Australian newspaper on 30 June, 14 July and 28 July 2004, and invited submissions by 30 July 2004. Details of the inquiry, the Bill and associated documents were placed on the Committee's website. The Committee also wrote to around 100 organisations and individuals.

The Committee received over 16,000 submissions. Most of these submissions related to Schedule 1 of the original Bill (the marriage aspect). The Committee thanks those organisations and individuals who made submissions.

On 31 August 2004, the Governor-General prorogued the 40<sup>th</sup> Parliament and dissolved the House of Representatives. Accordingly, the Committee has resolved not to continue its inquiry into the remaining part of the Bill (the adoption aspect). This decision is consistent with the approach to inquiries during elections adopted by other Senate Committees. If the remaining part of the Bill is reintroduced in the new Parliament, the Senate can again refer it to the Committee for inquiry.

A handwritten signature in black ink, appearing to read 'Marise Payne', with a stylized, flowing script.

**Senator Marise Payne**  
**Chair**