

24 August 2009

Peter Hallahan
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Mr Hallahan,

RE: Inquiry into the Marriage Equality Amendment Bill 2009

This letter comprises our submission to the Senate Legal and Constitutional Committee's inquiry into marriage equality.

We support the passage of the Marriage Equality Amendment Bill 2009, and urge the Committee to recommend to the Senate that the bill be passed without any amendment.

We believe that marriage should be permitted regardless of sexuality, gender and gender identity.

As a same sex couple we give below a number of reasons why we strongly believe same sex marriage should be legalized in Australia.

Why do we believe same sex marriage should be legalized in Australia?

1. All Australians should be equal before the law and have equal access to marriage.

Marriage is an important and longstanding social institution. It can be argued that marriage is afforded a greater social legitimacy than any other form of social partnership. Indeed it can be said that society generally regards married couples as being in a more serious and committed relationship than they regard de facto couples. As such married couples are given immediate access to relationship rights, entitlements and protections that de facto couples can only attain after a period of cohabitation. That is, society has deemed de facto relationships as "second class" to marriage.

In Australia de facto relationships are recognized by law and can be between same sex or opposite sex couples. This is as it should be.

However, the consequences of recognizing same sex de facto relationships, but denying same sex couples the opportunity to marry is to relegate same sex relationships to a permanent "second-class" status. To not allow same sex couples the same access to marriage as heterosexual couples is nothing less than discrimination, plain and simple.

2. Traditions can change.

It is argued that marriage has traditionally been a union between a man and a woman, and therefore must only ever be between a man and woman.

Slavery was a tradition.

Separation of the races was a tradition.

Interracial marriage used to be banned. It is not banned today.

Same sex marriage should not be banned either simply because it is not “the tradition”.

3. *Marriage in Australia is a civil institution.*

Under the Australian Constitution the Federal Government regulates marriage.

Australia is a secular state, not a religious theocracy. While the views and practices of religious institutions can be respected, it is not the role of the Australian Government to enact and enforce laws on the behest of religious bodies.

Marriage has been a civil institution for hundreds of years in Australia and Britain.

All citizens should be able to enter into a marriage with the partner of their choice – not be excluded because their partner is of the same sex.

4. *We want our marriage recognized in Australia.*

We are married legally under Canadian law. We are a same sex couple.

Had we been opposite sex and married in Canada our marriage would be recognized in Australia. However it is not. This is discriminatory.

Australia and Canada are very similar in many respects – our constitutional heritage from Great Britain, large land masses sparsely populated, vast mineral wealth, predominantly Anglo-Saxon culture enriched through migration of peoples from many cultures.

But in one respect Canada and Australia are miles apart – marriage. Same sex marriage is legal in Canada. Has Canadian society collapsed as a result? Has the institution of marriage in Canada been so devalued as a result? We think not!!

Why can't Australia follow the lead of so many advanced nations and legalise same sex marriage? What are we scared of?

5. *We want our families and friends to celebrate with us.*

We were married 3 years ago last July, in Vancouver – 10 years after the start of our loving and caring relationship in Australia. We married because we wanted to show our families that our love and commitment were deep and long. We would have married sooner had we been allowed to in Australia. But having been denied that possibility by changes to the Marriage Act in 2004, we took the opportunity to marry on a visit to Canada in 2006.

A marriage is a great occasion for the family to celebrate. Peter's sisters and father arrived in Vancouver, unexpectedly, to witness our marriage – making the occasion even more emotional than it would otherwise have been. Sadly, family could not afford the time or money to travel to Canada to witness this important event, and nor could many of our friends.

Had we been able to marry in Australia both of our families and our friends would have been there to witness our marriage.

6. *We want mothers and fathers to know that their gay son or daughter and same sex partner will have the respect and recognition of society.*

When Peter declared his homosexuality to his mother 26 years ago she cried, because at the time her view was that homosexuals led very lonely lives. Sadly Peter's mother died before we met and was not able to see that her view was wrong and that same sex relationships can be loving and long-lasting.

Let's change the way people view gay men and women.

Let's make everyone equal and give everyone access to all of society's institutions, including marriage.

We want mothers and fathers of gay sons and daughters to know that they will be able to celebrate their children's love, their children's relationships and their children's same sex marriage.

In conclusion, it is indisputable that same sex couples in Australia are currently unfairly discriminated against by exclusion from the social institution of marriage. While same sex marriage is not legal in Australia, all Australians are not equal before the law.

To reiterate, we strongly support the Marriage Equality Amendment Bill 2009, and strongly urge the Committee to recommend to the Senate that the bill be passed without any amendment.

Yours sincerely,

Peter Whitfeld