



30 MAR 2012

Committee Secretary
Senate Legal and Constitutional Committee
By email legcon.sen@aph.gov.au

Dear Committee Secretary

**Submission to the inquiry by the Senate Legal and Constitutional Affairs
Committee Inquiry into the Marriage Equality Amendment Bill 2010**

I write in support of the three bills currently before the Australian Parliament, including the *Marriage Equality Amendment Bill 2010* introduced into the Senate by Senator Hansen-Young, which proposed to amend the Marriage Act 1961 in support of marriage equality.

On Monday 7 November 2011, the Council of the City of Sydney unanimously resolved to:

- (A) *call upon the Australian Parliament to amend the Marriage Act to enable same sex couples to marry and to ensure that same sex marriages solemnised overseas are recognised in Australia;*
- (B) *call upon all political parties and individual Members of Parliament to support these amendments;*
- (C) *support the Rally for Marriage Equality planned for Saturday 3 December by:*
 - (i) *promoting the Rally through the City's media outlets and online presence;*
 - (ii) *flying the Rainbow Flag from the Town Hall, and Rainbow banners where practicable on Friday 2 to Sunday 4 December; and*
 - (iii) *requesting staff to continue their good work in liaising with the Rally organisers to ensure a safe, peaceful and successful rally.*

The Council resolution arose from a Lord Mayoral Minute which I presented to Council. I enclose a copy of my Lord Mayoral Minute as part of this submission.

I subsequently addressed the rally on 3 December, having spoken at several previous rallies in support of marriage equality. In my speech I said:

city of villages

"Australians from all walks of life, have publicly supported change and a large number of Australians now refuse to accept that the current discriminatory definition of marriage is carved in stone.

This definition is the work of a 19th Century judge, Lord Penzance, who was deciding an 1866 polygamy case. It is a legal ruling, and like many legal rulings, it can be overturned or updated with new information and new evidence.

We have moved on in the past 150 years. When Lord Penzance made his ruling, child labour was the norm, people were locked away in debtors' prisons and women had virtually no legal rights.

We no longer send children down the mines or up chimneys. We don't lock up people because they can't pay off their credit cards. And women now occupy the highest offices in the land.

Yet national leaders up till now have kept marriage locked in a 19th Century paradigm.

They believe that marriage will be protected by denying same sex couples the right to marry. That is like the illogical claim last century that women had to be denied the vote to protect democracy.

Our Federal parliamentarians need to legislate for the 21st Century.

Many gay and lesbian couples have loving, caring and life lasting relationships. As a society we should value and support these relationships.

And I wish you strength to your campaign which I strongly support."

I strongly urge the Senate Legal and Constitutional Affairs Committee to recommend support for amendments to the *Marriage Act 1961* to provide for marriage equality.

Yours ~~on~~ sincerely

Clover Moore MP
Lord Mayor of Sydney ~~by~~

ITEM 3.3. SUPPORT FOR MARRIAGE EQUALITY**FILE NO:****MINUTE BY THE LORD MAYOR**To Council:

Australia has made significant progress in recognising the human rights of lesbians and gay men. Much legal, social and economic discrimination against homosexuals has been removed. Gay and lesbian couples and their families generally now enjoy the same rights, benefits and responsibilities of heterosexual de facto couples and their families.

Despite these significant reforms, one area of discrimination remains. Loving gay and lesbian couples are still denied the certainty and formal public recognition of their relationships that only marriage can provide. In 2004, the Australian Parliament, with the support of all major parties, strengthened this inequality by amending the *Marriage Act* to explicitly define marriage exclusively as “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life” and to confirm that overseas same sex marriages will not be recognised in Australia.

The Australian Labor Party, which supported the 2004 amendments, is now considering changing its policy, with the issue expected to be debated at its National Conference in Sydney in early December. Already, all ALP State and Territory Conferences except NSW have voted in favour of same sex marriage.

Community support for marriage equality has dramatically increased since 2004. Parent groups, trade unions, student unions, high school groups, LGBT rights groups are all part of a strong grass-roots movement in support of this change. Prominent Australians, including high profile Labor Party members, and many Australian citizens from all walks of life, have publicly supported change.

This Council has also consistently supported the aspirations of lesbian and gay Australians. In August 2005, as part of a comprehensive resolution related to GLBT issues, Council endorsed the gay, lesbian, bisexual and transgender community’s demands for relationship equality and relationship certainty. In March 2008, Council confirmed this support in a resolution calling on the Rudd Government to act swiftly in removing discrimination against same sex couples. In February 2009, Council endorsed the Declaration of Montreal which aims to put GLBT rights on the United Nations agenda. The Declaration includes the statement: “As a matter of simple equality, same-sex couples are entitled to the full range of relationship options available to different-sex couples, including marriage for those who choose it.”

The City has also provided practical support to same sex couples through its Relationship Declaration Program. While this program did not provide any legal rights, it enabled couples to gain some formal recognition of their relationships in the absence of any action by the state and Commonwealth Governments.

I strongly support the GLBT community’s aspirations for full equality. The current definition of marriage is not carved in stone but the work of a 19th Century judge, Lord Penzance, who was deciding an 1866 polygamy case. It is a legal ruling and, like many legal rulings, it can be overturned or updated with new information and new evidence.

We do not allow other antiquated 19th century legal rulings or the social mores which influenced them to govern our lives. When Lord Penzance made his ruling, women had virtually no legal rights, child labour was acceptable and people were locked away in debtors' prisons. We have moved on in the past 150 years, with women now occupying the highest offices in the land. We no longer send children down the mines or up chimneys or lock up people because they cannot pay off their credit cards. Yet our national leaders want us to remain in the 19th century where marriage is concerned.

Another claim bandied about is that denying same sex couples the right to marry is essential to protect marriage. That is like the illogical claim last century that women had to be denied the vote to protect democracy. Over a third of marriages end in divorce and many others are under strain. Scapegoating same sex couples fails to address the many social, economic and psychological pressures on marriage.

Many gay and lesbian couples have loving, caring and life lasting relationships. We should be valuing and supporting these relationships as we value and support life lasting heterosexual relationships. Enabling same sex couples to marry not only affirms these relationships, but gives them certainty and promotes and strengthens stability.

This is why I have publicly supported every rally in support of marriage equality and spoken at most since I became Lord Mayor in 2004.

On Saturday 3 December, the Campaign Against Homophobia is planning another rally in support of marriage equality. The rally will begin in Hyde Park before proceeding to protest outside the ALP National Conference at Darling Harbour. City staff are working with rally organisers, particularly in relation to the Hyde Park section of the rally.

Australians For Marriage Equality, the Campaign Against Homophobia and other community groups are also seeking the support of the Australian community for the campaign for the right of same sex couples to marry.

It is a right that the City should readily support. I am inviting Council to again declare that every Australian should be free to marry the partner of his or her choice. Every Australian who wants to make a life commitment to the person he or she loves should be able to do so, and have it equally recognised and supported by the law.

RECOMMENDATION

It is resolved that Council:

- (A) call upon the Australian Parliament to amend the Marriage Act to enable same sex couples to marry and to ensure that same sex marriages solemnised overseas are recognised in Australia;
- (B) call upon all political parties and individual Members of Parliament to support these amendments;
- (C) support the Rally for Marriage Equality planned for Saturday 3 December by:
 - (i) promoting the Rally through the City's media outlets and online presence;
 - (ii) flying the Rainbow Flag from the Town Hall, and Rainbow banners where practicable on Friday 2 to Sunday 4 December; and
 - (iii) requesting staff to continue their good work in liaising with the Rally organisers to ensure a safe, peaceful and successful rally.

COUNCILLOR CLOVER MOORE MP

Lord Mayor