

Ms Julie Dennett  
Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

April 1<sup>st</sup>, 2012

Dear Ms Dennett,

Please accept the following as my submission to the Inquiry into the Marriage Equality Amendment Bill 2010. I understand that the committee has received a large number of submissions, many of which have been form submissions. This matter is a topic very close to my heart, and I believe I have an important perspective which will be valuable to the committee.

I strongly support the Marriage Equality Amendment Bill 2010. I believe that same-sex couples deserve the same respect that other couples are given, and any difference in the way they are treated is a failure, on the part of our great country, to allow all citizens equal recognition under the law. Further, I believe that the objections to allowing same-sex marriage are vastly insufficient to justify affecting public policy. Australia should not discriminate against people who hold various prejudices, nor should we prevent people from exercising their freedom of religious worship. At the same time, however, personal prejudices or religious beliefs should not be allowed to affect public policy, nor to impinge upon the freedoms of other Australians. While I believe Christian principles are often helpful to law-makers in their quest to build an ethical and fair system for all Australians, I do not believe that the oft-voiced Christian animosity towards gay relationships is consistent either with general Christian principles or with the goals of a free and equal society.

I am aware that there is a vocal group of Australians who are opposed to allowing same-sex couples access to marriage, and it is my experience that their objections are generally based on a statement of Christian traditionalism. I find the idea of excluding or undermining a group of people to be entirely at odds with my understanding of Christianity. "In the beginning God created them, male and female" - but the opponents of same-sex marriage seem to forget that God created a diverse bunch of males and females, and sometimes people who don't fit the gender binary at all. While I accept that some churches wish to maintain strict requirements for marriages conducted under their purview - I'm reminded of my own Catholic wedding, and having to seek special dispensation in order to marry a Protestant woman - I don't believe churches should be allowed to impose those requirements on the community at large. It's important to remember that, even within Christianity, opposition to same-sex marriage is far from universal, and there have been calls from within the lay community and the clergy to allow same-sex couples to marry. I don't believe that the traditions of any one religion should be allowed to dictate public policy, and we're not discussing here a universal truth held by all of Christianity, but rather one which is the subject of on-going contention and change. The church should be entitled to their rules, and the various denominations should have the freedom to evolve, or not, their attitude towards gay people and same-sex relationships; at the same time, the secular community, non-Christian religions, and of course, those Christian churches

which have chosen to endorse same-sex marriage, should be free to perform marriage ceremonies for same-sex couples with the full recognition of the Australian government.

I would like to add, on a personal note, that allowing same-sex marriage will not, in any way, undermine my own Catholic marriage, nor can I imagine how it could. Protestations that allowing same-sex marriage will somehow undermine "traditional marriage" are, to my mind, disingenuous.

I live in Queensland, and support for same-sex marriage was certainly something we heard about during the recent state election campaigns. Katter's Australia Party went to great lengths to remind Queenslanders that Campbell Newman has voiced support for same-sex marriage, and they claimed that "a vote for the LNP is a vote for same-sex marriage". Premier Newman certainly didn't suffer at the polls from his professed views. During the campaign, we also heard another message: a claim that same-sex couples are a danger to children. The matter of same-sex marriage has been one which I've been following for years, and the research does not support this fear. Rather than presenting individual items of evidence for the committee to analyse, judge for credibility, and so on, I will direct the committee to the ruling handed down by Judge Walker in the North California district court in 2010. This decision, despite addressing the strictly-American matter of whether a ban on same-sex marriage (Proposition 8) violated the constitution, contained numerous findings of fact with relevance to Australia. Both sides of the matter were well-funded and presented lengthy cases, and Judge Walker's ruling is a great source of judicially-vetted research. I believe that a thorough reading of the "Findings of Fact" section of the ruling (the relevant portion of which begins on page 60) would be invaluable to committee members in their decision-making process. The full text of the ruling can be viewed at this website:

<http://www.scribd.com/goodasyou/d/35374462-California-Prop-8-Ruling-August-2010>

I would like to highlight a number of findings of fact from this ruling which I believe are of specific relevance, firstly to this matter of child well-being:

"70. The gender of a child's parent is not a factor in a child's adjustment. The sexual orientation of an individual does not determine whether that individual can be a good parent. Children raised by gay or lesbian parents are as likely as children raised by heterosexual parents to be healthy, successful and well-adjusted. The research supporting this conclusion is accepted beyond serious debate in the field of developmental psychology."

"71. Children do not need to be raised by a male parent and a female parent to be well-adjusted, and having both a male and a female parent does not increase the likelihood that a child will be well-adjusted."

"72. The genetic relationship between a parent and a child is not related to a child's adjustment outcomes."

"79. The Proposition 8 campaign relied on fears that children exposed to the concept of same-sex marriage may become gay or lesbian. The reason children need to be protected from same-sex marriage was never articulated in official campaign advertisements. Nevertheless, the advertisements insinuated that learning about same-sex marriage could make a child gay or lesbian and that parents should dread having a gay or lesbian child."

I shall continue to rely on findings from Judge Walker's ruling to support the rest of my argument, and all quotes to follow, unless otherwise noted, shall be from the "Findings of Fact" portion of that ruling.

I won't take the committee's time to list all of the various objections which I've heard made against same-sex marriage and rebut them. I would like, however, to note several findings from Judge Walker's ruling which address common objections:

"21. California, like every other state, has never required that individuals entering a marriage be willing or able to procreate."

"34. Marriage is the state recognition and approval of a couple's choice to live with each other, to remain committed to one another and to form a household based on their own feelings about one another and to join in an economic partnership and support one another and any dependents."

"42. Same-sex love and intimacy are well-documented in human history. The concept of an identity based on object desire; that is, whether an individual desires a relationship with someone of the opposite sex (heterosexual), same sex (homosexual) or either sex (bisexual), developed in the late nineteenth century."

"46. Individuals do not generally choose their sexual orientation. No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation."

"48. Same-sex couples are identical to opposite-sex couples in the characteristics relevant to the ability to form successful marital unions. Like opposite-sex couples, same-sex couples have happy, satisfying relationships and form deep emotional bonds and strong commitments to their partners. Standardized measures of relationship satisfaction, relationship adjustment and love do not differ depending on whether a couple is same-sex or opposite-sex."

I would also like to point out that marriage in Australia requires free and informed consent, and there is no rational basis to conclude that allowing same-sex marriage will in any way undermine that requirement. Same-sex marriage is not the beginning of a slope which could lead to marriage between an adult and anyone or anything who or which cannot give free and informed consent.

While I hope I have demonstrated to the committee that the objections raised against same-sex marriage are unfounded, I also believe that there are numerous reasons Australia should recognise same-sex marriages, the foremost of which is the health, well-being, and happiness of a substantial number of Australian citizens. Various research into sexual identity has placed the proportion of gay people in the general populations at between 2% and 10%, and while I personally believe that the tendency is to under-estimate this number (due to a persistent stigma against being gay, and a resulting reluctance to admit to it), even the lower number indicates that this matter directly affects hundreds of thousands of gay Australians. When you consider the happiness of parents seeing their children marry, better stability for children of gay couples, and the happiness of friends and family, the number of Australians who would benefit from allowing same-sex marriage numbers in the millions.

I know that my own marriage to my wife has tremendous significance to me, and it also has significance to society at large. People understand marriage; it is a well-established institution which conveys the permanence of a relationship, and it bestows a particular level of respect and dignity upon a relationship and those in it. While some people may object to same-sex marriages, nobody can claim to misunderstand what one would mean, or to fail to see how the same meaningful, mutual love and respect at the heart of an opposite-sex marriage would not apply to a same-sex couple. While allowing same-sex couples to marry will involve changing a legal definition, it will not involve changing a societal definition. Even the most opposed portions of the community know what a same-sex marriage is intended to mean, and they won't need to consult a dictionary or act of parliament to do it. We are not re-defining marriage; we are, rather, recognising the definition of marriage: one which everyone understands, however much they want to disagree with it. However, while society understands marriage, and will continue to understand it once same-sex couples are allowed to marry, many people still do not 'understand' gay people: there are false stigmas, and a great deal of misinformation, about gay people. Allowing same-sex couples to marry will help the community to understand same-sex couples; it will reduce discrimination; and it will reduce violence. While several of the supporting quotes I'm presenting here refer specifically to Proposition 8, I believe they apply equally to any law which denies same-sex couples access to marriage:

"67. Proposition 8 singles out gays and lesbians and legitimates their unequal treatment. Proposition

8 perpetuates the stereotype that gays and lesbians are incapable of forming long-term loving relationships and that gays and lesbians are not good parents."

"68. Proposition 8 results in frequent reminders for gays and lesbians in committed long-term relationships that their relationships are not as highly valued as opposite-sex relationships."

"76. Well-known stereotypes about gay men and lesbians include a belief that gays and lesbians are affluent, self-absorbed and incapable of forming long-term intimate relationships. Other stereotypes imagine gay men and lesbians as disease vectors or as child molesters who recruit young children into homosexuality. No evidence supports these stereotypes."

Marriage provides numerous and substantial benefits to married couples. It provides legal protections, and it conveys a permanence of relationship which provides security to both spouses in times of distress. It creates a burden of care to each other, which lessens that same burden on society. It conveys a sense of societal acceptance and validity to both spouses.

"38. Marriage benefits both spouses by promoting physical and psychological health. Married individuals are less likely to engage in behaviours detrimental to health, like smoking or drinking heavily. Married individuals live longer on average than unmarried individuals."

"41. The tangible and intangible benefits of marriage flow to a married couple's children."

"41a. Tr 1042:20-1043:8 (Lamb: explaining that when a cohabiting couple marries, that marriage can improve the adjustment outcomes of the couple's child because of "the advantages that accrue to marriage.");"

Several states have civil union laws, allowing some form of recognition for same-sex couples. These civil union laws are not sufficient to provide equal recognition and dignity to same-sex relationships. The Queensland Civil Union bill, for example, specifically stipulates the primacy of marriage, and the impermanence of civil unions, by allowing a civil union to be dissolved simply by either member of the couple getting married. If we recognise that there are numerous and substantial benefits which come from marriage, to prevent a proportion of the population from accessing these benefits is contrary to the principles of freedom and equality.

"50. Same-sex couples receive the same tangible and intangible benefits from marriage that opposite-sex couples receive."

"51. Marrying a person of the opposite sex is an unrealistic option for gay and lesbian individuals."

"52. Domestic partnerships lack the social meaning associated with marriage, and marriage is widely regarded as the definitive expression of love and commitment in the United States."

"54. The availability of domestic partnership does not provide gays and lesbians with a status equivalent to marriage because the cultural meaning of marriage and its associated benefits are intentionally withheld from same-sex couples in domestic partnerships."

"60. Proposition 8 reserves the most socially valued form of relationship (marriage) for opposite-sex couples."

While item 52, as presented, is specific to the United States domestic partnership laws, I believe the same evidence and arguments lead to a similar conclusion in Australia: A civil union does not have the same standing, and does not convey the same benefits, as a marriage does. Marriage holds special meaning to countless Australians, and saying that same-sex couples should avail themselves of a separate institution for recognising their relationships denies this significance. It is simply a fact that no "equivalent" institution can provide the same meaningfulness and benefits, the same social standing, as the institution of marriage, and this reasoning alone should be sufficient to conclude that same-sex couples should be allowed to marry.

Preventing same-sex couples from accessing that most socially-valuable recognition of a relationship, that is, marriage, results in a less tolerant, more violent society. It perpetuates a stigma against gay people, which results in violence and bullying; and this stigma harms the mental health of gay people, and people who are perceived as being gay. It contributes to the suicide rate among gay people, especially gay youth. Violence is sometimes targeted specifically against people

because they are gay. Gay people are discriminated against in all sorts of ways, and some religious institutions are still active in lobbying for the right to discriminate against gay people when employing staff, even when sexual orientation would have no affect upon ability to perform the role. Even charities have been known to refuse to aid people who are in gay relationships, solely on that basis. Allowing same-sex couples to marry will not somehow force people who disapprove of gay people to discard their beliefs - Australians will continue to have the right to personally disapprove of all sorts of different people and relationships for all sorts of different reasons, and no Australian is going to be forced to attend, nor to approve of, same-sex weddings. Allowing gay people to marry will, however, serve to show people who still carry this prejudice that society does not agree with their prejudice. It sends a message that gay people deserve equal protection; equal dignity; and equal recognition. I do not believe that Christianity is fundamentally incompatible with acceptance of gay relationships; there are countless examples of Christian churches and people who do not hold any prejudice against gay people, and in fact there are churches who are vocal in their support of legalising same-sex marriage.

"62. Proposition 8 does not affect the First Amendment rights of those opposed to marriage for same-sex couples. Prior to Proposition 8, no religious group was required to recognize marriage for same-sex couples."

"74. Gays and lesbians have been victims of a long history of discrimination."

"77. Religious beliefs that gay and lesbian relationships are sinful or inferior to heterosexual relationships harm gays and lesbians."

"77a. PX2547 (Nathanson Nov 12, 2009 Dep Tr 102:3-8: Religions teach that homosexual relations are a sin and that contributes to gay bashing)"

"78. Stereotypes and misinformation have resulted in social and legal disadvantages for gays and lesbians."

The Australian government should move, as a matter of priority, to change the law to allow same-sex couples to marry, in precisely the same way, with precisely the same benefits, both legal and social, as opposite-sex couples do. Doing so will have numerous benefits, both for gay couples, and for the families and friends of those couples: in total, many millions of Australians. While there will continue to be groups of people who disapprove of gay relationships, and will disagree with their right to marry, those groups will not suffer any loss of freedom: they will not be forced to take any action, nor will they be forced to change any attitude. Over time, allowing same-sex marriage will see increased tolerance and less violence against gay people, as their relationships will be seen as valuable to society at large, and the suicide rate among gay people, particularly gay youth, will fall. I strongly urge the committee to recommend, in the strongest of terms, that same-sex marriage be legalised as a matter of priority.

Yours Sincerely,

Lionell Pack, B.E.