Submission 32

LEGISLATIVE COUNCIL

The Committee Secretary
House Standing Committee on Social Policy and Legal Affairs
PO Box 6021
Parliament House
Canberra ACT 2600
Australia

10 April 2012

Dear Committee,

Re: Inquiry into the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012

Thank you for the opportunity of making a submission to the Inquiry.

I make this submission in a personal capacity whilst acknowledging that I am a Member of the New South Wales Legislative Council.

In this submission I advance a number of grounds in support of Marriage Equality.

I note that both Bills seeks to amend the Marriage Act by repealing the current definition, and inserting a new definition. Any Bill that seeks to amend s. 5 (1) of the Marriage Act 1961 must not only refer to same sex-couples, but to also to sexual orientation and gender identity.

I note that both Bills seek to amend s. 47 of the Marriage Act 1961 so as to address the issue of exempting Ministers of Religion from the obligation to solemnise a marriage between members of the LGBTI community. Any exemption in s. 47 must be consistent with the definition of marriage in s. 5 (1).

Of the arguments advanced in this submission, the most compelling are the personal stories of individuals that have been shared with me since entering the NSW Parliament.

I attach a selection of these stories as an annexure to this submission for your consideration.

Regards,

[redacted]

The Hon. Trevor Khan MLC

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Submission to the Inquiry into the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012

The Hon. Trevor Khan MLC

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Contents

1.0 Introduction

Thank you for the opportunity of making a submission to the Inquiry.

I make this submission in a personal capacity whilst acknowledging that I am a member of the New South Wales Legislative Council.

I note that on 16 February 2012, the Selection Committee asked the House Standing Committee on Social Policy and Legal Affairs to inquire into and report on the *Marriage Equality Amendment Bill 2012* and the *Marriage Amendment Bill 2012*. The principle amendment affected by both Bills is to s. 5 (1) of the *Marriage Act 1961* by way of repealing the current definition, and then inserting a new definition as follows:

> "***marriage*** means the union of two people, regardless of their sex, to the exclusion of all others, voluntarily entered into for life."[1]

Or the broader definition;

> "***marriage*** means the union of two people, regardless of their sex, sexual orientation or gender identity, to the exclusion of all others, voluntarily entered into for life."[2]

In my view, any Bill that seeks to amend s. 5 (1) of the *Marriage Act 1961* must not only refer to same sex-couples, but to sexual orientation and gender identity, so as to remove any doubt that transgender and intersex people are caught by the amendment. *The Marriage Equality Amendment Bill 2012* does this by adopting a broader definition of marriage.

Both Bills repeal section 88EA of the *Marriage Act 1961*, a section which proscribes the recognition of same-sex marriages solemnised in a foreign country.

I note that both Bills seek to amend s. 47 of the *Marriage Act 1961* so as to address the issue of exempting Ministers of Religion from the obligation to solemnise a marriage between members of the LGBTI community.

The *Marriage Amendment Bill 2012* seeks to achieve this by way of a specific exemption for Ministers of Religion having to solemnise same-sex marriages. I am concerned that whilst this Bill seeks to use expansive in the proposed amendment to s. 5, that same language is not adopted in the proposed amendment to s. 47.

[1] *Marriage Amendment Bill 2012*
[2] *Marriage Equality Amendment Bill 2012*

In section 6.2 of this submission, relating to religious exemptions, I address the need for the Bill to contain an appropriate exemption for Ministers of Religion.

In this submission, I advance a number of grounds for supporting marriage equality, including that:

- Marriage is, at its core, a public expression of commitment, one to the other. It is to the benefit of individual members of our society, as well as the wider community, that such commitments are encouraged, and recognised;

- The "institution of marriage" is not a fixed and immutable concept. Rather, it has, over the centuries, and in different societies, been changed and adapted to meet the differing needs and mores of the community;

- Polling now consistently indicates the community at large, and particularly younger members of the community, are willing to embrace marriage equality;

- The granting of marriage equality will not interfere with either the rights of the heterosexual community to marry and nor will it adversely impact upon children;

- A change in the definition under the *Marriage Act 1961* can be effected without impinging upon religious freedoms;

- The full recognition of the personal freedoms, liberties, and responsibilities of members of the GLBTI community is long overdue.

2.0 A Conservative's Approach to Marriage Reform

I commence this submission by rejecting the assertion that support for Marriage Equality is purely the province of "left wing" groups. Indeed, I assert, the protection of civil and political rights is just as much the province of conservative politicians as it is our more radical cousins.

The approach taken by many members New South Wales Legislative Assembly and Legislative Council during both the *Relationship Register Bill 2010* and the *Adoption Amendment (Same Sex Couples) Bill 2010 (No 2)* debate in the New South Wales Parliament during 2010 demonstrated that sensitive issues, such as arise in the marriage equality debate, can progress in a thoughtful and non-partisan way.

There is however a more practical reason for supporting marriage equality.

This is the importance for politicians of all political persuasions to promote stable and harmonious relationships within our society. It is self-evident that society as a whole suffers when the basic structures within our society, such as the family unit, break down.

It was in this context that the American lawyer, and former US Solicitor-General under President George W Bush, Ted Olson said:

> "Many of my fellow conservatives have an almost knee-jerk hostility toward gay marriage. This does not make sense, because same-sex unions promote the values conservatives prize. Marriage is one of the basic building blocks of our neighbourhoods and our nation. At its best, it is a stable bond between two individuals who work to create a loving household and a social and economic partnership. We encourage couples to marry because the commitments they make to one another provide benefits not only to themselves but also to their families and communities. Marriage requires thinking beyond one's own needs. It transforms two individuals into a union based on shared aspirations, and in doing so establishes a formal investment in the well-being of society. The fact that individuals who happen to be gay want to share in this vital social institution is evidence that conservative ideals enjoy widespread acceptance. Conservatives should celebrate this, rather than lament it."[3]

In a similar vein, the British Conservative leader David Cameron said in 2006:

> "There's something special about marriage. It's not about religion. It's not about morality. It's about commitment. When you stand up there, in front of your friends and your family, in front of the world, whether it's in a church or anywhere else, what you're doing really means something. Pledging yourself to another means doing

[3] Theodore B. Olsen, "The Conservative Case for Gay Marriage," *Newsweek*, 8 January 2010.

> something brave and important. You are making a commitment. You are publicly saying: it's not just about 'me, me, me' anymore. It is about we: together, the two of us, through thick and thin. That really matters. And by the way, it means something whether you're a man and a woman, a woman and a woman, or a man and another man."[4]

I encourage members of this Committee, when considering this issue to constantly keep in mind that marriage is indeed a 'commitment", and that it is to the benefit of individual members of our society, as well as the wider community, that such commitments be encouraged, and recognised.

[4] Nicholas Watt, "David Cameron apologises to gay people for section 28," *The Guardian*, 2 July 2009, viewed 20 March 2012 at http://www.guardian.co.uk/politics/2009/jul/02/david-cameron-gay-pride-apology

3.0 The 'Institution' of Marriage

It has been portrayed by opponents of marriage equality that to allow members of the LGBTI community to marry would create the greatest challenge to marriage in the modern era. For instance, Britain's Cardinal Keith O'Brien in an article in Britain's *The Telegraph* on 3 March 2012 said of proposals to allow same sex marriage in Britain:

> "It will redefine society since the institution of marriage is one of the fundamental building blocks of society. The repercussions of enacting same-sex marriage into law will be immense."[5]

What appears to be forgotten is the dramatic changes have occurred to marriage during the last fifty years.

Perhaps the most momentous of these changes (although certainly not the only one), in Australia, was the introduction of the *Family Law Act 1975*. As was pointed out by Barry Maley in his paper "The Future of Marriage":

> "By the beginning of 1975 Australian marriage had evolved over two centuries from a virtually indissoluble bond in which the place of the husband as formal head of the family and holder of property was paramount, to a relationship of legal equals in which divorce, although available, required that one party had to prove marital misconduct or 'fault' before divorce was allowed."[6]

Some members of the Committee may remember the hostility the introduction of the *Family Law Act 1975* received and the predictions made at the time that marriage and the family unit would be destroyed by the introduction of no-fault divorce.

In reality, after a significant spike in divorces in the years immediately following the introduction of the legislation, the rate of divorce has now remained basically stable for the better part of two decades, defying the apocalyptic visions of many of the opponents of the Bill.

One is left to conclude that marriage is far more robust than some of the doomsayers would have us believe.

The additional lesson to be learnt is that one should treat with scepticism predictions of calamity without sound and reasoned supportive arguments. Too often a fear of change and

[5] Keith O'Brien, " We cannot afford to indulge this madness," *The Telegraph Online*, 3 March 2012, viewed 20 March 2012 at http://www.telegraph.co.uk/comment/9121424/We-cannot-afford-to-indulge-this-madness.html
[6] Barry Maley, "The Future of Marriage," *Centre for Independent Studies website*, viewed 20 March 2012 at http://www.cis.org.au/images/stories/policy-monographs/pm-58.pdf

an adherence to past custom and practice masks informed debate. As Rev. Harry Herbert recently opined:

> "One of the great problems for Christian churches is the confusion between religion and culture. Defending past cultural norms is often the first reaction of churches to changes in social mores."[7]

3.1 A Brief Historical Perspective – informal and formal marriages

Modern opponents of marriage equality, such as Cardinal O'Brien, frequently describe marriage as an "institution". The use of the term "institution", by implication suggests to many a high degree of solidity and permanence.

Thus, Jim Wallace, the Managing Director of The Australian Christian Lobby, told a press conference in July 2011:

> "The current debate on marriage represents a real concern held by a very large proportion of our free society; that an institution that has been between a man and a woman for millennia and across cultures is not 'up for grabs'."[8]

Putting for the moment, to one side just what proportion of society has a real concern about the re-definition of marriage, there is a real issue about what the "institution of marriage" has meant to society over "millennia".

Both historical and contemporary examples highlight that use of the term "institution of marriage" fails to recognise the evolving nature of marriage. Marriage as an institution, if we choose to describe it in that way, has proven to be dynamic, adaptable to change, and enduring, despite changes in social expectations and attitudes.

Marriage has evolved over history from an informal arrangement, entered in to with little or no religious ceremony, through to a more formal arrangement of more recent centuries.[9]

For instance, the early Christian Church recognised 'secret marriages,' and Ranft (1998) claims that:

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[7] Rev. Harry Herbert, "Church misses big picture on same-sex marriage," *The Sydney Morning Herald Online*, 14 February 2012, viewed 20 March 2012 at http://www.smh.com.au/opinion/society-and-culture/church-misses-big-picture-on-samesex-marriage-20120213-1t1jr.html

[8] Jim Wallace, Australian Christian Lobby press conference transcript, *Australian Christian Lobby website*, viewed 20 March 2012 at http://australianchristianlobby.org.au/wp-content/uploads/Transcript-of-pressconference-withdrawing-from-gay-marriage-debate.pdf

[9] Greg Jenner, "How Not to Argue Against Gay Marriage," *Huffington Post Online*, 5 March 2012, viewed 20 March 2012 at http://www.huffingtonpost.co.uk/greg-jenner/cardinal-keith-obrien-gay-marriage_b_1321068.html

> "...Canon lawyers went so far as to endorse secret marriages, and church courts upheld them, despite many an irate family"[10]

It was not until the Council of Trent 1545 -1563 that the Catholic Church laid down requirements for marriages to be witnessed by a priest, otherwise the marriage being invalid.

This requirement did not apply to Protestant marriages, so that, in the English context, it was not until the passing of the Marriage Act 1753 that "marriages by habit and repute", common law marriages, were supplanted by the requirement of a ceremony before a Minister of the Church of England.

The Marriage Act 1753 also sought to prevent "Fleet Marriages"; marriages performed at the Fleet Prison in London, which accounted for roughly half of London's marriages.

The point here is not to give a complete historical overview of marriage, but rather to highlight the changing nature of marriage at different points in history.

3.2 The changing legal implications of marriage

Definitions of marriage have, historically, been quite flexible and more restrictive notions of marriage are relatively new.

In a recent article entitled "How not to argue against Gay Marriage," historian Greg Jenner has highlighted the concept of romantic marriage as a relatively recent one. The author outlined the changing nature of marriage over the centuries and observed that marriages were:

> "...traditionally economic and political contracts between families. In the Early Middle Ages, money was exchanged between grooms, fathers-of-the-bride and wives to be"[11]

Likewise, Maley observed:

> "Until the modern period in the West, the indissolubility of marriage was coeval with continuity of land tenure within families. In 1981, Mary Ann Glendon published *The New Family and the New Property*. It showed the intimate connection between conceptions of marriage and its functions, and laws governing the holding of property. Arranged marriages, for example, which sought to ensure that holdings of land would be kept within the family blood line during medieval times, began to disappear early

[10] Ranft, P. (1998). *Women and Spirituality Equality in Christian Tradition*, St Martin's Press, New York, p. 150.
[11] Greg Jenner, "How Not to Argue Against Gay Marriage," *Huffington Post Online*, 5 March 2012, viewed 20 March 2012 at http://www.huffingtonpost.co.uk/greg-jenner/cardinal-keith-obrien-gay-marriage_b_1321068.html

> in the modern period when property or wealth no longer consisted primarily in land, but in income from earnings and profits."[12]

Consistent with the observations of Jenner and Maley, that marriage was an economic and political contract, it should be noted that marriage previously had profound implications for women. For instance, under the common law doctrine of couverture, upon marriage:

> "… the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs everything…….. For this reason, a man cannot grant anything to his wife, or enter into covenant with her: for the grant would be to suppose her separate existence; and to covenant with her, would be only to covenant with himself: and therefore it is also generally true, that all compacts made between husband and wife, when single, are voided by the intermarriage."[13]

Maley explains that the gradual evolution of marriage by the impact of shifting economic drivers, saying:

> "Marriage...was influenced by the locus of wealth generation, and wealth in the modern era was becoming increasingly located in human capital - in the individual capacity to earn income or to prosper in business.
> "First in England and later elsewhere, as the link between marriage and land tenure weakened, conceptions of marriage changed. Companionship and the importance of romantic love, although incidental but by no means absent in the old regime, became central to the idea of marriage, and the acquisition or retention of land as a primary concern faded."[14]

Yet another example of the implications of marriage for women is the law as it related to non-consensual sexual intercourse in marriage. It has only been in approximately the last thirty or forty years that Australian jurisdictions have over-ridden the long established common law that a married woman could not withdraw her consent to sexual intercourse by her husband. Sir Matthew Hale in his *History of the Pleas of the Crown*, expressed the view that a wife:

> "….hath given up herself in this kind unto her husband, which she cannot retract."[15]

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[12] Barry Maley, "The Future of Marriage," *Centre for Independent Studies website*, viewed 20 March 2012 at http://www.cis.org.au/images/stories/policy-monographs/pm-58.pdf
[13] Sir William Blackstone, Commentaries on the Laws of England (1765-1769), viewed online 20 March 2012 at http://www.lonang.com/exlibris/blackstone/
[14] Maley, Ibid.
[15] Sir Matthew Hale, *History of the Pleas of the Crown*, viewed online 20 March 2012 at http://archive.org/stream/historiaplacitor01hale#page/n3/mode/2up

Whilst such a concept would now seem repugnant to most, this principle applied in Australia well into the 1970s.

I would argue that the changes that have occurred to legal relationships within marriage over recent centuries, both with respect to property relationships within marriage, and to such issues as consent to sexual intercourse, demonstrate the dynamism and adaptability of marriage.

It is, in short, erroneous for the Committee to accept any analysis that portrays marriage as a static institution, incapable of adapting to modern expectations and experiences. To the contrary, marriage has demonstrated a remarkable capacity to change and adapt to the social norms and mores of society over the centuries.

3.3 Restrictions on the Right to Marry

A further example of how marriage has changed over time relates to restrictions that have been placed upon parties' rights to marry.

Perhaps one of the best examples of such restrictions are anti-miscegenation laws. Whilst the most well known are those anti-miscegenation laws that existed in many states of the United States and apartheid South Africa, similar laws existed in Nazi Germany, and to this day, in some countries in the Middle East.

The most celebrated case in the United States is *Loving v Virginia*[16], a case handed down by the US Supreme Court on 12 June 1967. In his decision Chief Justice Warren observed:

> "On January 6, 1959, the Lovings pleaded guilty to the charge (of breaching the anti-miscegenation laws), and were sentenced to one year in jail; however, the trial judge suspended the sentence for a period of 25 years on the condition that the Lovings leave the State and not return to Virginia together for 25 years. He stated in an opinion that:
>
> > "Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And, but for the interference with his arrangement, there would be no cause for such marriage. The fact that he separated the races shows that he did not intend for the races to mix."[17]

To celebrate the 40th anniversary of the 1967 decision, one of the Plaintiffs, Mildred Loving released a statement in which she said:

[16] *Loving v Virginia*, 388 U.S. 1 (1967).
[17] Ibid.

> "Surrounded as I am now by wonderful children and grandchildren, not a day goes by that I don't think of (my late husband) Richard and our love, our right to marry, and how much it meant to me to have that freedom to marry the person precious to me, even if others thought he was the "wrong kind of person" for me to marry. I believe all Americans, no matter their race, no matter their sex, no matter their sexual orientation, should have that same freedom to marry. Government has no business imposing some people's religious beliefs over others. Especially if it denies people's civil rights.
>
> I am still not a political person, but I am proud that Richard's and my name is on a court case that can help reinforce the love, the commitment, the fairness, and the family that so many people, black or white, young or old, gay or straight seek in life. I support the freedom to marry for all. That's what Loving, and loving, are all about."[18]

The decision of *Loving v Virginia* has recently been cited with approval in *Perry v. Schwarzenegger* a first instance decision of Justice Vaughan Walker overturning California's Proposition 8.

It should be remembered that the laws struck down by the Supreme Court in *Loving v Virginia* rendered the 1961 marriage of Stanley Ann Dunham and Barack Hussein Obama (parents of President Obama) illegal in at least seventeen states of the United States.

It may be difficult for some members of the Committee to believe that such laws existed and that they made illegal something that in Australian society would be considered quite unremarkable now.

Nevertheless, even today, there are people who believe that marriage should not occur between different races, and between people of differing religions.

The issue is whether the Parliament has any role in restricting the rights of citizens who wish to marry for reasons such as this. Plainly, my answer is; the Parliament does not have a role governing the intimate relationships of its citizens.

[18] Loving, M. (2007). "Loving for All," viewed 20 March 2012 at www.freedomtomarry.org/pdfs/mildred_loving-statement.pdf

3.4 Marriage in Contemporary Australia – religious v civil ceremonies

The pace of change in how Australian society views marriage, it could be argued, has quickened over recent decades.

Data from the Australia Bureau of Statistics (ABS)[19] shows that between 1990 and 2010, there was almost a halving in the number of marriages performed by Ministers of Religion. 57.9% of marriages were performed by Ministers of Religion in 1990, falling to 30.7% in 2010.

In the same period, the number of marriages performed by a civil celebrant almost doubled from 42.1% in 1990, to 69.2% in 2010.

This almost complete reversal in the proportion of marriages performed before a civil celebrant, as opposed to before a minister or priest, reflects a profound shift in peoples' interpretation of marriage, and the role of the Churches in modern Australian society.

Within the space of a single generation marriage ceremonies have moved from being primarily church based to secular ceremonies before a celebrant. In reality, if the current trend were to continue, then within another generation, the percentage of marriages performed in churches would be negligible.

This shift reflects a change in what marrying couples see they are doing, by marrying. No longer do they see marriage as "an institution that has been between a man and a woman for millennia and across cultures", but rather as a modern, public expression of commitment and love, undertaken before family and friends.

3.5 Marriage at a later age

It is not, however, simply a matter of where and how today's Australians are choosing to marry. The ABS data shows that young people are choosing to marry later.

The table below shows the marriage rate in three different age groups between 1990 and 2010.

	1990	**2000**	**2010**
20-24	44.0	24.1	16.1
25-29	54.1	50.2	43.7
30-34	27.7	33.5	35.7

(Marriage rate equals marriages per 1000 estimated resident population.)

[19] The Australia Bureau of Statistics, "Marriages and divorces, Australia 2010," viewed 20 March 2012 at http://www.abs.gov.au

The marriage rate of people in the 20-24 age group fell from 44.0 in 1990, to 16.1 in 2010. Similarly, in the 25-29 age group, the marriage rate fell from 54.1 in 1990 to 43.7 in 2010.

The 1990 to 2010 period saw an increase in the marriage rate in the 30-34 age group from 27.7 in 1990, to 35.7 in 2010.[20]

3.6 The trend towards co-habitation prior to marriage

The explanation for this shift in age groups is at least partly explained by the increasing prevalence of couples choosing to co-habit prior to marriage.

Additionally, it might be said that following the change in social norms that accompanied the Sexual Revolution of the 1960s, marriage is no longer seen as the only acceptable opportunity to experience sexual activity. The ready availability of birth control, coupled with changing social norms, has allowed people to experience other relationships before settling into a permanent relationship.

Since the ABS began collecting data on cohabitation prior to marriage in 2000, there has been an increase in the rate of couples cohabiting prior to marriage, from 71.3% of married couples in 2000 to 78.6% of married couples in 2010.[21]

Whilst the data is more limited with respect to co-habitation, it reflects a significant increase, even over a decade.

When one combines the age group data with data relating to co-habitation, it is fair to conclude Australians are choosing to marry later, most commonly, after a period of co-habitation.

In short, marriage is no longer seen as the starting point at which young people move from the family home, commence an intimate relationship and "set up home". Instead marriage is, for the majority of young Australians, a later step in the relationship. It is occurring at a point long after the commencement of a sexual relationship, and indeed long after co-habitation.

[20] The Australia Bureau of Statistics, "Marriages and divorces, Australia 2010," viewed 20 March 2012 at http://www.abs.gov.au
[21] Ibid.

3.7 The second marriage

It should also be acknowledged that the data also demonstrates that many people in modern Australia are marrying for a second time.

In 2010, 21,873 females (18.1% of all females) and 24,063 males (19.9% of all males) registered for marriage had been previously divorced. These proportions have remained relatively steady over the twenty years from 1990.[22]

These figures compare to approximately 10 per cent for each gender in 1976.

Additionally, roughly one third of marriages involve one party who has previously been married. This is a significant rise from 1967, when the number involving a previously divorced party was only 14 per cent.[23]

The data with respect to remarriage is extensive, and the effect on families and children from previous marriages has been exhaustively analysed. Nevertheless, taking into account the greater age at which people remarry, the phenomena of remarriage highlights that second marriages are often undertaken for a variety of reasons entirely disconnected from the intention to procreate.

Whilst opponents of marriage equality will often assert that the primary purpose of marriage is the procreation and raising of children, the reality is that marriage in contemporary Australian society is frequently for other reasons.

Reasons such as love, stability, sexual satisfaction and companionship are all recognised in contemporary Australian society as valid reasons for marriage. Interestingly, these are precisely the same reasons why many members of the GLBTI community seek also the right to marry.

3.8 Summary

The ABS data, relating to age group and co-habitation, reinforces the argument that younger Australians today see marriage as a public expression of their commitment to each other; as an expression and recognition of the decision to enter into a binding and long term relationship.

Additionally, the ABS data relating to second marriages reinforces the argument, that simple explanations for the reasons for marriage, advanced by opponents of marriage equality, are out of step with contemporary Australian experience and norms.

[22] The Australia Bureau of Statistics, "Marriages and divorces, Australia 2010," viewed 20 March 2012 at http://www.abs.gov.au
[23] Ibid.

What however remains true is that marriage is important in promoting positive relationships in our community. As was said in the US decision of *Griswold v. Connecticut*:

> "Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any..."[24]

[24] *Griswold v. Connecticut*, 381 U.S. 479 (1965)

4.0 Polling on marriage equality and public opinion

Much has been made of polling by both sides of the debate. In the early years of the debate, those opposing marriage equality pointed to polling as support for their contention that calls for marriage equality emanated from a very vocal, gay, leftist minority.

Of more recent times, as the polls have shifted in favour of marriage equality, it has been the proponents of marriage equality who have pointed to the growing acceptance of marriage equality, particularly amongst younger age groups.

Galaxy polling commissioned by Australian Marriage Equality between 2009 and 2011 now shows that 62% of Australians support marriage equality.[25]

The same polling shows that 80% of young people (18-24 years) support marriage equality.

The support for marriage equality in the community is not only reflected in the Galaxy polling commissioned by Australian Marriage Equality.

Other reputable polling indicates consistent support of over 60% for marriage equality.

For instance, 62% in a Nielsen poll in November 2011[26]; 70% in a News Limited poll in August 2011[27]; 68% in a Roy Morgan poll in August 2011[28]; and 65% in News Limited poll in December 2010.[29]

What is notable in all this polling is that, when one compares these results with the ABS data, it will be seen the age groups with the highest marriage rates (those aged between 18 and 35) are consistently the strongest supporters of marriage equality.

In short, those with the greatest stake in ensuring the "institution of marriage" is viable and relevant are the least threatened by the prospect that members of the GLBTI community may also gain access to the same rights and privileges that they currently experience.

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[25] Australian Marriage Equality, Polling Fact Sheet, viewed 20 March 2012 at http://www.australianmarriageequality.com/wp/wp-content/uploads/2010/10/AMEpollfactsheet@Jun11.pdf

[26] Michelle Grattan, "Abbott bans conscience vote despite support," *The Age Online*, 12 December 2011, viewed 20 March at http://www.theage.com.au/national/abbott-bans-conscience-vote-despite-support-20111211-1opu3.html

[27] Dan Fisher, " Alternative census reveals the real Australia," *The Daily Telegraph Online*, 9 August 2011, viewed 20 March at http://www.dailytelegraph.com.au/lifestyle/alternative-census-reveals-the-real-oz/story-e6frf00i-1226111802140

[28] Roy Morgan Research, Marriage Equality Poll, viewed 20 March 2012 at http://ten.com.au/CanOfWorms-poll-results-worm-11.htm

[29] Lincoln Archer, "Gay marriage, does your MP agree with you?", *News.com.au*, 1 December 2010, viewed 20 March 2012 at http://www.news.com.au/national/gay-marriage-data-interactive/story-e6frfkw0-1225961445853

Whilst I recognise that the preponderance of recent polling is in favour of a change in the law to recognise marriage equality, I would, unlike many other proponents, argue that such polling should not be the touchstone upon which a change in the law should be based. I contend that the availability of a civil right to an individual or group should not be determined by polling or popular opinion.

For instance, if the test of favourable opinion polls were the criteria then it is unlikely that the *Civil Rights Act 1965* would have passed "the popularity test" in many States in the US.

Similarly, anti-miscegenation laws would have remained on the statute books of many States in the US for many years after the US Supreme Court declared them in breach of the 14th Amendment.

Indeed, even today, in some Southern states of The United States of America, there is still notable support for anti-miscegenation laws, 45 years after the Supreme Court *Loving v Virginia* case ruled such laws unconstitutional.[30]

Mildred Loving made this point about public opinion when she said in a statement commemorating the 40th anniversary of the *Loving v Virginia* decision:

> "My generation was bitterly divided over something that should have been so clear and right. The majority believed that what the judge said, that it was God's plan to keep people apart, and that government should discriminate against people in love. But I have lived long enough now to see big changes. The older generation's fears and prejudices have given way, and today's young people realize that if someone loves someone they have a right to marry."[31]

If the members of the Committee were to look back to 12 June 1967, when the decision of *Loving v Virginia* was handed down, would not each member agree with Chief Justice Earl Warren's reasoning, irrespective of what opinion polls at the time may have said?

When Chief Justice Warren said "(t)he freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men" surely his reasoning was correct, not because of polling, or opinion polls, but because the recognition of personal freedoms, liberties, and responsibilities is always right.

[30] CBS Local, "Poll: Many Southern Conservatives Feel Interracial Marriage Should Be Illegal", viewed 20 March 2012 at http://washington.cbslocal.com/2012/03/13/poll-many-southern-conservatives-feel-interracial-marriage-should-be-illegal/

[31] Loving, M. (2007). "Loving for All," viewed 20 March 2012 at www.freedomtomarry.org/pdfs/mildred_loving-statement.pdf

5.0 The American Experience

Much can be learnt in the current debate on the issue of marriage equality from the evidence adduced, and the findings made in the course of a number of recent US Court decisions.

Whilst many of the legal arguments that have arisen in the US courts relate to the interpretation of the US Constitution there have been a number of finding of fact which will instructive in the Committee's deliberations.

I recommend two cases as being of particular assistance:

5.1 Perry v Schwarzenegger

The first is the 2010 decision of *Perry v Schwarzenegger*[32], a case that arose following the passing of California's Proposition 8.

On 4 August 2010, Justice Vaughan Walker handed down his decision, finding that Proposition 8 offended the 14th Amendment of the US Constitution.

Amongst the finding made by Justice Walker, after hearing extensive evidence were:

> "21.California, like every other state, has never required that individuals entering a marriage be willing or able to procreate."
>
> "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."
>
> "50. Same-sex couples receive the same tangible and intangible benefits from marriage that opposite-sex couples receive."
>
> "55. Permitting same-sex couples to marry will not affect the number of opposite-sex couples who marry, divorce, cohabit, have children outside of marriage or otherwise affect the stability of opposite-sex marriages."

[32] *Perry v. Schwarzenegger,* 704 F.Supp.2d 921, *932 (*N.D. CA 2010*)*

"56. The children of same-sex couples benefit when their parents can marry."[33]

5.2 Golinski v. Office of Personnel Management

The second decision worthy of consideration is *Golinski v Office of Personnel Management.*[34] This is a decision that arose out of the refusal of the of the Federal Courts administration to provide health care cover to the legal spouse of the employee of the US Federal Courts. The refusal followed the passing of The Defense of Marriage Act (DOMA). The employee and her spouse, both female, had married in California at a time when same sex marriages were legal in that state.

Amongst the findings made by the Court were:

- "…there is no dispute in the record or the law that sexual orientation has no relevance to a person's ability to contribute to society."

- "the consensus in the scientific community is that sexual orientation is an immutable characteristic..."

- "More than thirty years of scholarship resulting in over fifty peer-reviewed empirical reports have overwhelmingly demonstrated that children raised by same-sex parents are as likely to be emotionally healthy, and educationally and socially successful as those raised by opposite-sex parents..."

- "The denial of recognition and withholding of marital benefits to same-sex couples does nothing to support opposite-sex parenting, but rather merely serves to endanger children of same-sex parents by denying them "'the immeasurable advantages that flow from the assurance of a stable family structure,' when afforded equal recognition under federal law.""

- "...an interest in promoting procreation within marriage cannot provide a legitimate reason to exclude same-sex marriages from federal recognition. The ability to procreate cannot and has never been a precondition to marriage. The condemnation of homosexuality as immoral;

> "has been shaped by religious beliefs, conceptions of right and acceptable behavior, and respect for the traditional family. For many persons these are not trivial concerns but profound and deep convictions accepted as ethical and moral principles to which they aspire and which thus determine the course of their lives. ... The issue is whether the majority may use the

[33] *Perry v. Schwarzenegger*, 704 F.Supp.2d 921, 932 (N.D. CA 2010)
[34] *Golinski v. Office of Personnel Management*, No. 10-00257 (N.D. Cal.)

> power of the [government] to enforce these views on the whole society through operation of the ... law" (Lawrence, 539 U.S. at 571)
>
> The Court concludes it cannot. The imposition of subjective moral beliefs of a majority upon a minority cannot provide a justification for the legislation. The obligation of the Court is "to define the liberty of all, not to mandate our own moral code.""

- "….the argument that the definition of marriage should remain the same for the definition's sake is a circular argument, not a rational justification. Simply stating what has always been does not address the reasons for it. The mere fact that prior law, history, tradition, the dictionary and the Bible have defined a term does not give that definition a rational basis, it merely states what has been."

- "The exclusion of same-sex couples from the federal definition of marriage does nothing to encourage or strengthen opposite-sex marriages."[35]

5.3 Summary

The decisions of Perry and Golinski both warrant careful consideration by the Committee. Both decisions involve a careful consideration, not just of the law as it applies in the United States, but also the extensive evidence adduced by the parties.

The conclusions reached by the Courts are compelling in favour of recognising the legitimacy of such same-sex marriages.

[35] *Golinski v. Office of Personnel Management*, No. 10-00257 (N.D. Cal.)

6.0 The Marriage Equality Motion – NSW Legislative Council

6.1 The Faehrmann Motion

On 14 February 2012, The Greens Cate Faehrmann gave notice to introduce a motion in support of marriage equality in the NSW Legislative Council in the following terms:

1. That this House
   (a) supports marriage equality
   (b) calls on the Parliament of the Commonwealth of Australia to amend the *Commonwealth Marriage Act 1961* to provide for marriage equality

The motion is yet to be debated.

6.2 Religious exemptions

On 22 February 2012, I wrote to all members of the Legislative Council, advising of my intent to move an amendment to Ms Faehrmann's motion in the following terms:

> That the question be amended by inserting after paragraph (b):
>
> (c) notes that Article 18 of the United Nations Universal Declaration of Human Rights provides that "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance",
>
> (d) calls on all participants in the debate on marriage equality to treat those with differing views with respect, dignity and tolerance, and
>
> (e) calls for any amendment to the Marriage Act 1961 (Cth) to ensure that religious institutions are not forced to solemnise marriages they do not wish to.

I encourage the Committee, in preparing its report to ensure that the rights guaranteed under Article 18 of the Universal Declaration of Human Rights are acknowledged and respected.

6.3 – Transgender and Intersex people

As a matter of fairness and equality, any Bill that seeks to amend s. 5 (1) of the *Marriage Act 1961* must not only refer to same sex-couples, but also to transgender and intersex people.

If a broader definition of marriage were adopted, that is, one that includes transgender and intersex people, exemptions for Ministers of Religion must also adopt the same language. It would, I suggest, be an unfortunate and unintended outcome, if, by a failure to use consistent language, a legal challenge was brought regarding the breadth of the exemption afforded Ministers of Religion under s. 47.

I suggest the rights bestowed by Article 18 of the Universal Declaration of Human Rights can be protected by the insertion of an amendment to s. 47 of *the Marriage Act 1961*, as follows:

After paragraph (a) insert:

> (aa) imposes an obligation on an authorised celebrant, being a Minister of Religion, to solemnise a marriage where the parties to the marriage are of the same sex; or where one or both of the parties are transsexual or intersex; or

6.4 – Emails: The human face of exclusion

I conclude this submission by noting that since 14 February, I and other Legislative Council members have received in excess of 700 emails in support of Ms Faehrmann's motion.

I acknowledge that the mere receipt of a large number of emails, just as with the case of polling, should not be persuasive in and of itself. Whilst many of the emails received were pro forma expressions of support for the proposed motion, others contained details of the personal circumstances of the writers.

Some of these stories are, in my view, particularly poignant. For instance, one man from regional NSW wrote explaining why he and his father were supporters of marriage equality:

> "...Two years ago, as the last of my sisters, filed for divorce from her husband, my dad said to me that he never thought my (gay) relationship would be the one of all his children's relationships that would stand the test of time. He thanked me for proving him wrong and changing his opinion on not only the gay community but also on marriage equality.

> My father has since acknowledged that he regrets not attending my commitment ceremony in 2006, adding that "I pray I will be given the opportunity to right my wrong and see my eldest son legally marry the man he loves".
>
> This is why I (and my father) support marriage equality."

Many of the submissions rightly point out, particularly those from same-sex parents, gay and lesbian members of our community are now equal in most aspects of the law, except marriage.

Some expressed concern that the passing of a Civil Union Bill in the Federal Parliament would create a second tier of marriage that would further ingrain discrimination in relationship recognition laws. In my view, this is correct.

A number of emails were from people of Christian faith. Indeed, one email began with the following words:

> "Firstly, as a gay Christian, I want to firmly refute any claims or statements made on my behalf by any Christian organisation which promotes inequality or intolerance. They do NOT speak for me, nor do they represent my beliefs."

Attached are some of the personal stories told by members of our community who have written to members of the NSW Legislative Council.

Some are written by people who live in Sydney. Others are written by people who live in regional New South Wales.

Most are written by members of the LGBTI community, whilst some are written by parents hoping for a better future for their children. One or two are written by the children of gay parents.

I can do no better than to urge members of the Committee, when they deliberate on their report, to consider the hopes, wishes and aspirations of each of these writers.

Trevor Khan

Member of the New South Wales Legislative Council

10 April 2012

Annexure A – Marriage Equality Emails

A., Male	I was raised in a devoted Christian home in rural NSW where differences were public embarrassments not something to be embraced. Coming out at 16 in 1996, was the greatest risk I have ever taken and I would be lying if I said this news was well received. It took my family over 5 years to even admit to themselves that I was gay, much less accept it. I met my partner M... over 8 years ago. In that time my heterosexual brother and two heterosexual sisters have all met, married and divorced (or separated) from their legally married wife/husbands. It's ironic that according to society and those opposed to marriage equity who say homosexual relationships aren't stable, when in my family's case this is far from the case! I never believed that my parents would ever accept me or my relationship with M.... Two years ago, as the last of my sisters, filed for divorce from her husband, my dad said to me that he never thought my (gay) relationship would be the one of all his children's relationships that would stand the test of time. He thanked me for proving him wrong and changing his opinion on not only the gay community but also on marriage equity. My father has since acknowledged that he REGRETS not attending Mark and my commitment ceremony in 2006, adding that "I pray I will be given the opportunity to right my wrong and see my eldest son legally marry the man he loves". This is why I (and my father) support marriage equity.
A., Female	In August of 2011, my partner and I travelled to the USA and were married in the state of Connecticut. We look forward to the day where we can legally celebrate this union in our own state and country, along with our family and friends who missed the happiest and most important day of our lives.

J., Female	I am a 33 year old woman, a working health professional, and a loving wife. The only difference about me is that I'm married to a woman. My wife and I currently live in Canada, as we are recognized as equal citizen here. I would like to return to live in Australia, however until our marriage is recognized in my country of birth, I don't want to live in a country that treats me different to other citizens. Gay marriage is human right issue, and I would like to see my country catch up with the rest of the modern world.
A., Male	I am a 24 year old homosexual with a 4yr old daughter. I would like to share with you something that happened recently that pointed out just how unfair the current legislation is. The mother of my daughter is to this day one of my best friends, is about to get married to an amazing man. The other night my daughter asked me when I was getting married to my boyfriend, I had to turn to her and say that I wasn't allowed to get married. She cried!! Marriage Equality is going to happen because it is the right thing and I urge you to support this upcoming motion. I look forward to the day I can legally marry the love of my life and share this day with the people I love.
D., Female	If marriage is about the social recognition of a relationship of love and commitment then surely I am married. I have been with my partner for 30 years. Our love and commitment has survived three decades of life's joys and challenges. If marriage is not about the social recognition of love and commitment then why have it at all?
S., Male	Not allowing same sex couples to marry denies us (and our families) legal equality and perpetuates discrimination and prejudice. I have been in a loving relationship for nearly 16 years, and have adopted Australia as my homeland. I came here for work, fell in love, and believed I was trading my US residence for a more full and equal life, as I gained my residency and subsequent citizenship based on my same sex relationship. I believed that Australia would continue its progressive path. The overwhelming majority of Australians support full marriage equality and it is the right thing to do.

	Marriage matters! Amend the Commonwealth Marriage Act so that same sex partners can be wed!
H., Female	As a child of lesbian parents, the struggle for LGBT equality has been a prevalent issue throughout my life. I can remember a time during which my non-biological mother was considered by our government as merely a stranger in my household, although she has been my primary parent since the age of two. Although thankfully much of the discriminatory legislation has since been removed from Australian law, the illegality of marriage between same sex partners still lingers as a reminder of the inequality my parents face every day, due to the simple basis of their sexual preference. As a heterosexual woman, and as representative of the LGBT family, I cannot comprehend the reasons behind Australia's archaic laws prohibiting same-sex marriage. This policy is simply outdated, and does not serve the best interests of the modern day family. I urge you as my representative to stand up and support marriage equality, and put an end to this discrimination in Australian law.
J., Male	My partner and have been living together in a same sex relationship for 35 years. We know our relationship is strong and worthy of the respect we receive from all our families and friends. It seems to us that the only people who don't respect our right to full equality as a couple are our politicians. Are politicians so removed from reality that they don't understand the basis of the right of all people to equal respect in our laws. For us, when we see our politicians espousing human rights for people living in other countries, we see hypocrisy. They don't have the lived experiences of discrimination here that we have had to endure.
L., Male	My partner and I have lived together for 37 years and over that time seen great advances in the human rights of same-sex attracted people in this state, including Law reform and robust anti-discrimination measures. But one thing still remains that continues to demarcate us as second-class citizens, and it is in your hands to remedy this. Please do so.

A., Male	My partner and I have been in a relationship together for over 20 years and yet I still have to describe it as "a relationship" rather than being able to call it what it really is - marriage! How can a 20 year gay relationship be deemed less valid than a much shorter heterosexual one?
M., Female	We have 4 sons in their 50's. 2 are married with children, and 2 are gay. All 4 are great mates but and all have been taught to respect all people because we all have a right to be equal. They are proud to be Australian but it is a fact of life that the Laws of our Land do not treat them as equals in the area of human relationships.
A., Male	I come from Canada and am now a proud Australian. Gay marriage was made legal in Canada many years ago, and the world has not fallen apart. Being from an Asian-Canadian background, I draw a clear parallel between racism that I have faced, and homophobia. Truly, there is no justification for a lack of equality, and equal treatment, when this prejudice and discrimination continues to harm the self-esteem of gays and lesbians, creating unequal conditions, and in the worst cases, leading to teen suicides.
P., Female	Our son 5yrs old proudly tells his peers he has two mums as parents in his family. He feels secure and supported but the truth is his family isn't seen to be the same as his friends whose parents can marry! Please stop this discrimination.
P., Male	One of the hardest moments of my life was watching my brother get married and thinking I can't do this. It's just not fair that I don't have the same basic rights as him, which is why I'm asking you to please support marriage equality.
K., Male	I have been with my partner for 20 years and I think we should have the option to marry and have full equality.

T., Female	Hi my name is T.... and in July I will give birth to my first child. In between deciding which car seat and name I should choose I realised I also have to worry about what sexuality my baby will be and how many rights he or she will have. That is just how silly this debate is, we're debating rights based on the sexuality of a baby! The checklist shouldn't be 10 fingers, 10 toes, sexuality heterosexual - congratulation you have a healthy baby with all its rights! When you consider how you will vote and debate the upcoming bills relating to same sex marriage, I ask you to remember that no one is asking for more right, just the same rights. Please give my baby irrespective of his/her sexuality the same rights I have as a heterosexual woman.
C., Male	At the age of six, I migrated from Europe in 1973 with my poor Catholic Portuguese family of six. I grew up in the Illawarra around the southern parts of Wollongong and was suicidal by 18. I didn't feel I belonged anywhere nor had anyone to look up to. I now live in the more enlightened Sydney and as a 44 year old openly gay man, I feel that this debate isn't about "gay marriage" or special rights but about Civil Marriage Equality for ALL adult citizens and improving the quality, mental health and stability of life for everyone.... .....I am a former Catholic and now a practicing Quaker at Devonshire Street, Sydney. Quakers (also known as Religious Society of Friends) like the Metropolitan Community Church (MCC), Unitarians and some Rabbis and Uniting Church ministers are ready and willing to conduct Marriage ceremonies for same sex partners in their churches and synagogues for gays and lesbians who worship with them and want it. In the case of the Australian Quakers, they made a public statement in 1971 of the need to move on equality for all homosexuals. This was based on the Quakers belief of our "Equality Testimony" which has served us throughout the Quakers' 350 year history. Friends in Australia have celebrated same-sex and mixed-sex commitment ceremonies since 1994 with first Quaker same-sex marriage in 2007. Why can I not express MY religious freedom to marry my same sex partner within a Quaker community?
A., Male	I have been in a loving same sex relationship for the past 26 years..in this time we

	have always been told by government that "marriage" is between a man & a woman, and that allowing same sex couple to marry, would make a mockery of these values...I ask what values...when so called loving couples that are in the eyes of the world can be married and separated in 72 days...I know of many marriages that do not last longer than 1 year. It's time we bring this into the modern era....we can foster children...we can adopt children...we can even have a surrogate have a child for us....but....WE CAN NOT MARRY....isn't that a little back to front....Years ago a heterosexual person that had a child out of wedlock was a lower class individual and looked down upon...Go Figure.
A., Female	My "life partner" and I have just celebrated in private our 16 year anniversary and are still in love and still face the day to day grind of working professional women. No complaints, we're happy. Would we "marry" if it was legal to do so in this country? Yes. What are we going to do, well the same as others, we will marry in another country and live happily ever-after.
C., Male	Firstly, as a gay Christian, I want to firmly refute any claims or statements made on my behalf by any Christian organization which promotes inequality or intolerance. They do NOT speak for me, nor do they represent my beliefs. As a supporter of marriage equality I would like to take a few moments of your time to explain why this issue is so important to me personally. When my partner, A..., and I had been together for about 3 years he encountered some health issues and was admitted to hospital for an extended time. During this time I encountered some staff who would give me updates upon request, but for the most part I was unable to receive any information either on the phone or in person. One incident in particular stands out in my memory of standing at the nurse's station after visiting hours and being unable to find out any current updates. I then rang Adam's auntie in Queensland who then rang the hospital on my behalf. I stood there, looking the attendant in the eye while she gave updates to A....'s auntie over the telephone which could have so easily been given to me standing RIGHT THERE. I am 42 years old, A.... is 35 and we have now been together for 9 years with no end in sight. To this day we each carry handwritten notes from our respective Mothers giving permission for us to receive medical information on each other if we are in circumstances such as I described above.

	The terms "husband" or "wife" are recognized worldwide as meaning next-of-kin and being responsible for one another. Neither term requires additional explanation or legal documentation to illustrate exactly what rights and privileges go along with such a designation - like the term "civil union" would. We are gay and in a loving relationship, but primarily we are human beings as well as Citizens of a country that was once regarded as one of the frontrunners in human rights and equality. Please do not let the Australian philosophy of a "fair-go" become a thing of the past. I strongly urge you to cast your vote in a manner which would reflect that the Marriage Act should be amended to allow same-sex couples to marry.
C., Male	I have been with my partner now for 19 years. I met him when I was 18 on my first night out as an adult and have been with him ever since. It was love at first sight. We have contributed to society being employed in well paid jobs and paid our taxes over these 19 years. We have attended weddings of our friends. Always sitting with the singles table. We don't go to weddings anymore. We now have a baby daughter, and I'm on parental leave having been given the same rights as other parents in my place of employment. The one thing, that makes our life feel so non-accepted in society is not being able to be married. This government can make a difference and help my daughter to grow up feeling like her parents and herself are accepted in society without prejudice. Please vote to allow me to marry my life-long partner and let my family be complete. Vote for marriage equality.
J., Male	I am in a same-sex de facto marriage which is of 36 years' duration, so far. We have remained committed to mutual love and support throughout, despite battling much ill health (in sickness and in health) and through periods of financial hardship (for richer, for poorer). We have lived the marriage vows. We would like our marriage recognised and respected by the Australian Government's laws.
J., Male	My partner and I have been together over 40 years, led high profile lives, respected by family, friends, colleagues, and the community yet still regarded as 2nd rate citizens.
K., Female	I married my same sex partner in her home town in Canada in 2011. We are traditional at heart and wanted to confirm our commitment to each other in the life long bond of marriage.

	When we flew out of Canada bound for our home in Sydney we were somehow un-married somewhere over the ocean. How can that be? Do you know what that does to a person? I simply have faith that Australia will take a stand as a nation that values equality. A nation that believes strongly in the importance of committed loving families. A nation that is not frightened of doing what it knows is right.
M., male	My partner and I were legally married in 2007 in Canada. We have 2 children. What do we tell our children when they ask why our marriage is not recognised in Australia? Please support marriage equality.
S., Male	I have been with my (same sex) partner for nineteen years. We live a very boring typical married life in sleepy Greenwich. We're both professional, pay our taxes and contribute to society. We're 'married' under British law but as soon as we stepped out of the Consulate onto Australian soil (where we are citizen and live), our contract became null and void..... Marriage Equality is a no-brainer and I look forward to seeing NSW leading the way.
Rev. Greg Smith	**Statement on Marriage Equality in Australia by Metropolitan Community Church Sydney** Metropolitan Community Church Sydney is part of the Universal Fellowship of Metropolitan Community Churches, which has over 43,000 members in over 250 churches in 22 countries. In its 40 year history the UFMCC has taken a strong and uncompromising stand in favour of equality and social justice for all people, especially for members of the GLBT communities. Metropolitan Community Church Sydney stands with MCC Churches everywhere in its commitment to marriage equality and justice for all people everywhere. Marriage equality is a social justice issue. MCC Sydney is committed to supporting and working for marriage equality for all people around the world and especially

	here in Australia whether they are in opposite or same sex relationships. MCC Sydney supports the freedom of religion for all faiths. Freedom of religion is vital concern when it comes to marriage equality as not all Christians hold the same view regarding who they will marry. Rather there is great divergence of beliefs amongst Christians when it comes to marriage. Some Christian churches only marry those who are members of their church. Some Christian churches will marry people who have been divorced while others will not. If legal some Christian churches will marry same-sex couples while others will choose not to. MCC Sydney supports the rights of all churches to practice their faith according to their own conscious. Not all churches are currently allowed to practice their faith freely according to their conscious. We at MCC Sydney strongly believe in the holy rite of marriage for all couples yet we are forbidden by Australia law to practice this aspect of our faith for our members and friends who are in same-sex relationships. The fight for Marriage equality is not solely a secular social justice issue. For MCC Sydney it is also a religious freedom issue. Practicing the rite of holy matrimony for same sex couples is as much a part of our faith as is practicing the rite of holy matrimony for opposite sex couples. As long as Australia does not allow civil marriage equality we do not have the freedom of religion to practice our faith fully. MCC Sydney also supports freedom from religion. No citizen should have second class rights in Australia due to the religious bigotry of others. As such we call on the Australian Federal Government to change such laws as would be required to be changed to bring about a fair go and full civil marriage equality for all residents of this great country of ours. MCC Sydney will use our resources to work in partnership with other community organisations, both secular and religious, in speaking out against those who would seek to demonize homosexuality and who oppose equal rights for same-gender couples and full marriage equality.