

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: 1.1

Question No. AE16/029

Senator Gallagher asked the following question at the hearing on 9 February 2016:

Senator GALLAGHER: One of the options that I have had discussions with stakeholders around is the idea of a self-executing plebiscite, which would automatically legalise equal marriage if the plebiscite succeeded. Has advice been provided to you on that proposal?

Senator Brandis: It is a possibility that has been addressed. Let me take that on notice. I have taken a deal of legal advice from various sources on this. Whether there is specific legal advice on a self-executing plebiscite? I had better take that on notice rather than mislead you.

Senator GALLAGHER: Thank you. And, further, whether that could be constitutionally valid and how that—

Senator Brandis: There is a constitutional issue about this—about that model.

Senator GALLAGHER: It would be excellent if you could take that on notice.

The answer to the honourable senator's question is as follows:

The Attorney General's Department has received legal advice on the constitutionality of a self-executing plebiscite. It would not be appropriate to release the substance of that advice.