

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Senators,

On March 26, 2004, in Toronto, Ontario, Canada, before a duly authorised marriage celebrant and in accordance with Canadian law, we, Graham Douglas and Damian Meyer were married.

On returning to Australia, as many married couples do, we joined our names together and legally changed our surnames to Douglas-Meyer.

At that point in time, in accordance with the Hague Convention on the Celebration and Recognition of the Validity of Marriages, to which Australia is a signatory, and in accordance with the automatic recognition of marriages of opposite-sex couples married under exactly the same Canadian law, we sought to have our marriage recognised by various institutions here.

Our bank, Westpac, had absolutely no problem listing us as a married couple in their records at the time they processed our change of names. Damian's employer recognised Graham as his husband.

Of course, our friends and family recognised us as married.

However, despite there being no law preventing it at the time, no government department was prepared to recognise our marriage. We started the process of seeking to have our marriage declared valid by the courts and were seeking legal advice, when in August 2004, the then Liberal Government, with the support of the Labor opposition, passed the Marriage Amendment Act 2004 which effectively outlawed our marriage.

That Act inserted into the Marriage Act 1961 the following clause

88EA Certain unions are not marriages

A union solemnised in a foreign country between:

- (a) a man and another man; or
- (b) a woman and another woman;

must not be recognised as a marriage in Australia.

This clause has turned us into second class citizens in our own country. Yet we have the same responsibilities as every other citizen, but we cannot have our marriage recognised as a marriage in Australia.

Well, legal niceties aside, this hasn't changed the fact that we are married - we are husband and husband. Our bank still recognises us as married. Damian's employer recognises us as married. Our friends recognise us as married. Our families recognise us as married, in exactly the same way as our straight brothers and sisters and their respective husbands and wives are married.

Of course Canada recognises us as married, as do Belgium, The Netherlands, Norway, South Africa, Spain and Sweden. In the United States of America, the states of Massachusetts, Connecticut, Iowa, New York and the District of Columbia will recognise our marriage, and Vermont, Maine and New Hampshire are well on the way to that position.

Nepal's highest court has ruled that marriages between persons of the same-sex should be recognised, and the process is under way for legislation to do exactly that. Israel's High Court of Justice has made a similar ruling.

France, Portugal, Uruguay, Argentina, Iceland, Slovenia, Albania, Luxembourg have all announced various legal changes that, if passed, will allow same-sex marriage in their countries, and we expect, will recognise our marriage in those jurisdictions.

Recent polling published by Galaxy shows that over 60% of our fellow Australians want our marriage recognised in Australia.

Recent government legislation has changed much of Commonwealth law to remove discrimination against same-sex couples, giving us the same status as an opposite sex de facto couple. While those laws are appreciated and long-overdue, we are not a de facto couple. We are married.

In the 1967 case "Loving v. Virginia", the United States Supreme Court overturned the US state of Virginia's ban in inter-racial marriage. As part of it's judgement, it said:

"Marriage is one of the "basic civil rights of man," fundamental to our very existence and survival.... To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discrimination. Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State."

Substitute race for sexuality or same-sex and the same premise applies. While the US Supreme court has not yet reached that stage, there are several cases in the US before lower courts that, we believe, will lead to the same decision in the fullness of time.

Certainly, supreme courts in Israel, South Africa, Canada, and Nepal have made rulings supporting same-sex marriage. Legislatures in other countries have moved in the same direction without court rulings. It is time for Australia to recognise the same basic right - that people should be free to marry regardless of the gender of the members of the couple.

In 1955 in Montgomery, Alabama, Rosa Parks refused to move to the back of the bus so a white passenger could sit at the front. Now that bus would still have delivered Mrs Parks to the same destination whether she sat at the front or the back. But that action was the trigger for removing racial segregation in the southern United States. As she said in her autobiography "My Story":

"People always say that I didn't give up my seat because I was tired, but that isn't true. I was not tired physically, or no more tired than I usually was at the end of a working day. I was not old, although some people have an image of me as being old then. I was forty-two. No, the only tired I was, was tired of giving in."

We feel the same way. We are tired of giving in, we are married and it is about time our government, our laws and our country recognised that simple fact.

We respectfully request the Honourable Senators on the Legal and Constitutional Affairs Committee also recognise that fact, and support the Marriage Equality Amendment Bill 2009.

Yours sincerely,

Damian Douglas-Meyer
Graham Douglas-Meyer