

The Standing Committee on Legal and Constitutional Affairs,
The Senate,
PO Box 6100, Parliament House, Canberra, A.C.T. 2600.

Friday, 18 July 2008.

From: Kendall Lovett and Mannie De Saxe,
Lesbian and Gay Solidarity (LGS) Melbourne,
PO Box 1675,
Preston South, Victoria 3072.

SUBMISSION
TO THE INQUIRY INTO THE SAME-SEX RELATIONSHIPS
(EQUAL TREATMENT IN COMMONWEALTH LAWS
–SUPERANNUATION) BILL 2008.

Preamble

The Coalition parties in the Lower House managed to get this Bill delayed by sending it for review to the Senate Standing Committee because they are opposed to recognising same-sex couples at all, let alone granting equal treatment with different-sex relationships or recognising children of same-sex couples as legitimate. That's like the Apartheid version of the old South Africa –“separate but equal.”

This country has moved on from the 19th and early 20th century mindset which saw children born “out of wedlock” as less than those born of a woman's and a man's legal marriage. It is, therefore, necessary for this Bill which amends the discrimination against same- sex couples and their children in the various federal superannuation schemes to be fully supported.

However, this falls short of the intention included in this amendment bill, namely Equal Treatment in Commonwealth Laws. Even in this legislation when passed into law it will continue to discriminate against same-sex and transsexual/transgender couples who have recorded their relationship in various Local Government, State and Territory Governments informal registers because these registers are not the equivalent certification required for a civil marriage or a religious institution marriage. They must remain de facto regardless of whether or not they sign one of these informal registers which apparently are termed a prescribed kind of relationship in a State or Territory.

Because it joined with the Coalition Parties in the previous government to amend the Marriage Act to confine it to a man and a woman and no other, it behoves this government to provide an equivalent legal document that bestows the same benefits and responsibilities for same-sex and transsexual/transgender couples as the Marriage Act does for different-sex couples. Of course, there will be many same-sex and trans couples who will eschew such a contract just as so many different-sex couples abstain from getting married and remain in a de facto relationship by choice. But that is not a reason for the government to continue refusing to legitimise a same- sex couple's relationship, particularly if that is what the couple wants. The government should be prepared to accede to the wishes of those who have endorsed these informal registers. LGS recommends that such a legal document becomes a recommendation from this Inquiry.

The BILL

Specific comment for consideration

Prescribed kind of relationship

This term, referred to in the Bill at 25, Schedule 2: as an addition to paragraph 4AB(4)(b), is obviously part of working out if persons have a relationship as a couple –meaning a de facto relationship; e.g. (g) in the list of circumstances that assists in reaching a determination, namely in the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008. In the case of transsexual/transgender people, LGS recommends that they receive recognition as recipients of the benefits of the Bill because, despite the scientific and technological advances, the wider society tends not to respond positively and creates unnecessary situations for them, even in laws, unless trans people can be covered openly in new legislation such as this.

LGS supports this Bill as extremely satisfactory and trusts that the Inquiry will be able to recommend that no major change to any section be made to it. We look forward to our recommendations here and in the Preamble receiving favourable consideration.

Signed: Kendall Lovett
For Lesbian & Gay Solidarity (LGS) Melbourne.
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