



AUSTRALIAN FAMILY ASSOCIATION South Australian Branch

24 July 2008

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Inquiry into the Same-Sex Relationship (Equal Treatment in Commonwealth Laws-Superannuation) Bill 2008

The Australian Family Association (SA Branch) wishes to make a submission to the Same-Sex Relationship (Equal Treatment in Commonwealth Laws-Superannuation) Bill 2008 inquiry.

Predetermined outcome?

The Australian Family Association has serious reservations about the impartiality of the Human Rights Equal Opportunity Commission (HREOC) *Same-sex: Same Entitlements* inquiry from which recommendations for this legislation have come.

In launching the inquiry on 3 April 2006, HREOC President Justice von Doussa QC said of same-sex couples: "it is now time to highlight those areas of inequity and do something about them."¹

Human rights Commissioner Graeme Innes said on the same occasion that "we look forward to working with you to finally eliminate discrimination in this important area."²

¹http://www.hreoc.gov.au/Human_Rights/samesex/inquiry/SameSexSpeech_vonDoussa20060403.html , viewed 22/07/08

²http://www.hreoc.gov.au/Human_Rights/samesex/inquiry/SameSexSpeech_Innes20060403.html , viewed 22/07/08

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The AFA (SA) made these concerns known in its submission to the HREOC *Same-sex: Same Entitlements* inquiry, dated 3 November 2006.

Undermines the status of marriage

While perhaps unintentional, there is no doubt that the legislation undermines the status of marriage. Marriage - the union of one man and one woman, the bedrock institution of society from which the next generation are raised and nurtured - has rightly been provided a privileged status in relation to other relationships.

Replacement of the term 'marital relationship' with 'couple relationship' and 'husband or wife' with 'partner' are examples of how this legislation waters-down marriage. Whilst the definition of "marital relationship" has come to include de facto couples, the watering-down of marriage in the past should not be an excuse for doing so in the future.

Government should not grant special rights to others by downgrading the status of married persons to that of a mere 'couple relationship'. The goal of government should be to strengthen the all-important institution of marriage, not weaken it.

Discriminates against other caring relationships

The bill, in its haste to address perceived discrimination against same-sex couples, fails to extend benefits to all relationships of interdependency – i.e. mother and daughter, brother and sister - and thus actually reinforces discrimination.

The South Australian *Domestic Partners Property Act 1996*

If the Government wishes to address perceived discrimination, it should do so in a way that does not undermine the status of marriage, as this proposed legislation so clearly does. One such option it may wish to pursue is the interdependency model as was done in South Australia by means of the *Domestic Partners Property Act 1996*.

Under this scheme, rights pertaining to the division of property, including superannuation, could be given to any 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a long-term interdependent couple on a genuine domestic basis.

Purely sexual criteria is avoided, and one of the main reasons Governments have any interest in regulating relationships – dependency – is provided for.

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Summary

- The inquiry leading to this legislation was not objective, and its recommendations cannot be taken at face value.
- The granting of rights to others should not be at the expense of marriage and marriage-like de facto relationships.
- If government wants to address unjust discrimination, interdependency is an option it may wish to consider

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