

## **INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW**

**Name:** Mr Stephen Sander

**Date received:** 13/02/2013

---

Dear Members of Parliament,



I live with my same-sex partner of over 14 years. On 13 December 2012 we celebrated the 14th anniversary of our happy, monogamous, stable, fulfilling and successful same-sex relationship. I am a lawyer with one of Australia's largest national law firms and my partner is a marketing professional who has worked for some of Australia's largest corporations.

We are godfathers to two wonderful boys, aged 12 and 8. We are sons, siblings, friends, homeowners and productive, tax paying members of Australian society. We

are active, reliable and accepted members of our local community.

Three years ago, on our tenth anniversary, my partner and I decided to hold a commitment ceremony in beautiful Blackburn Gardens, followed by a dinner reception.

We, like everyone else, wanted to celebrate our love and enduring relationship with our families and friends present. I was amazed by, what could only be described as, our local council's downright excited attitude to booking the Gardens for the occasion and our choice of dinner reception venue, Wildfire at Sydney's Circular Quay, had put in an incredible effort to make the night memorable.

Throughout the entire planning process and the big day itself we received nothing but support from everyone who was involved and even the general public who witnessed the ceremony itself in the Gardens; no doubt a clear sign of the changing attitudes of the general public to same-sex marriages.

The entire day was a wonderful experience. A lovely marriage celebrant prepared an appropriate ceremony for us. Our families were in attendance, even my grandmother flew in from the US and my brother traveled from Hungary! Our friends and colleagues came with their children and our neighbours of almost ten years were also there wishing us well. The incredible memories of that day will last a life time.



However, despite that wonderful private ceremony, I still hope that one day my partner and I can get married officially right here at home, in Australia, and that our relationship will be sanctioned and accepted as legitimate by the State (not the churches).

Why? Because even though I cannot fault the day, compared to the state-sanctioned marriage ceremonies of our heterosexual friends, our ceremony felt second-class in some way by virtue of it being legally unrecognised and completely unofficial. In some sense what we were doing almost felt illegal, even though we were perfectly within our right to hold such a private commitment ceremony and celebration. This feeling wasn't helped by the fact that I still distinctly recall our wonderful celebrant being worried after the ceremony, because she accidentally mentioned the word 'marriage' (force of habit no doubt) and noted that she could get into serious trouble for that ... We laughed this off at the time but it remains an enduring memory from the day.

### **Public acceptance and support of same-sex marriage**

In light of the above, it will come as no surprise to anyone that I support same-sex marriage.

However, it seems that [the Australian public](#) is generally coming to the same view, and support comes even from the seemingly most [unexpected quarters ... rugby](#). Although despite all the support, sadly, Australia does suffer from a slight case of [homophobia hypocrisy](#).

The [recognition of same-sex relationships is slowly spreading across Australia](#), however, the progress is slow, hard-fought and often ends in undesirable outcomes such as civil unions legislation and various relationship registers. Such inequitable outcomes merely continue to enforce discrimination, inequality and social injustice by legally and socially further entrenching discrimination and endorsing the view held by some on the inferiority of gay relationships vis-à-vis heterosexual marriage, while trying to masquerade as a common sense, reasonable compromise for the benefit of all.

Even the survey conducted by the House Standing Committee on Social Policy and Legal Affairs in the course of their [Inquiry into the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012](#), indicates a clear majority support for marriage equality ([64 and 60.5% respectively for each of the proposed marriage equality legislation](#)), even though the high-profile inquiry has attracted a well organised campaign by the usual suspects opposing equality for gay women and men.

Polls even in the [USA are showing significantly increased public support](#), despite (or perhaps because?) the best efforts of evangelical Christians and hate groups such as the [Westboro Baptist Church](#).

Although, arguably, it is largely irrelevant what the public thinks on this issue because equality before the law, especially in a secular liberal democracy, is a discrimination, human rights, moral (but not in a religious sense) and social justice issue and such matters should never be the subject of the vagaries of public opinion but rather of informed, impartial and thoughtful public policy unaffected by religious ignorance and intolerance and baseless, uninformed human fears. It's worth

remembering that a liberal democracy is 'liberal' because it does not subject the protection of basic human rights to a collective deliberation process; rather such rights are recognised constant, inherent, universal and unalienable and are simply not up for debate or to be subjected to a popularity contest. Add secularity to the mix, and the churches position becomes flagrantly untenable and wrong and downright contrary, in fact hostile, to and utterly incompatible with the underlying fundamental principles of a secular liberal democracy.

### **Religion and same-sex marriage**

So why is same-sex marriage such a political hot potato? I think we can all agree that the reason can be summed up in a single word: religion. In fact it is impossible to separate religious opposition to same-sex marriage from their general archaic disapproval of homosexuality.

There were some blatantly obvious expressions of this disapproval, in the form of open hatred and homophobia, in the many ignorant submissions made by various religious bodies and individuals to both Parliamentary inquiries into proposed Australian marriage equality laws.

A glaring example of this hateful, ignorant and deceitful approach was the [likening of gay marriage to incest](#) (yes, incest!) by religious opponents before the [Inquiry into the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012](#) conducted by the House Standing Committee on Social Policy and Legal Affairs.

The [submissions made by religious bodies and individuals](#) to the parallel [Inquiry into the Marriage Equality Amendment Bill 2010](#) conducted by the Senate Legal and Constitutional Affairs Legislation Committee also make for a disturbing read and further highlight the religious hatred, amoral deceit and blind ignorance directed at gay women and men.

Thankfully there is a growing international acknowledgement of the fact that ['gay rights' are nothing less than unalienable universal human rights](#). On 8 December 2011, the UN Secretary-General Ban Ki-moon called homophobic bullying a ['grave violation of human rights'](#).

He stated that '[t]ackling this problem is a shared challenge' and noted that parents, family members, teachers, neighbours, community leaders, journalists, *religious figures* (emphasis added) and public officials all had a role to play in combating violence and discrimination on the grounds of sexual orientation and gender identity.

In a historical moment for civil rights and the fight against religious extremism, intolerance, bullying and homophobia, on 10 May 2012, the President of the United States of America, Barack Obama, announced publicly in a TV interview that he supports marriage equality:

On 21 January 2013 Barack Obama further advanced his position on gay rights during his second inaugural address, by stating as follows:

*"We, the people, declare today that the most evident of truths – that all of us are created equal – is the star that guides us still; just as it guided our forebears through Seneca Falls, and Selma, and Stonewall; just as it guided all those men and women, sung and unsung, who left footprints along*

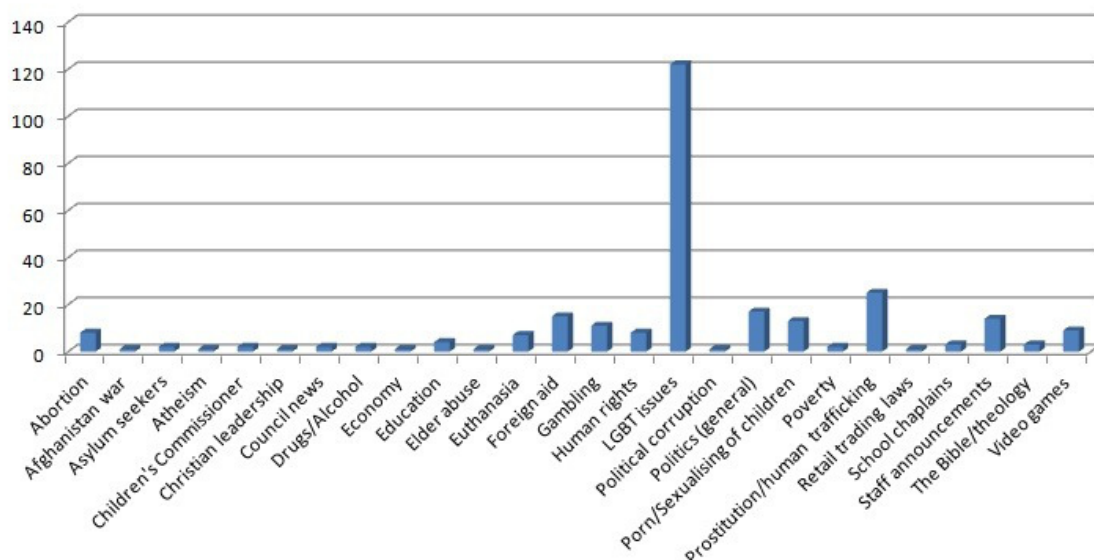
*this great Mall, to hear a preacher say that we cannot walk alone; to hear a King proclaim that our individual freedom is inextricably bound to the freedom of every soul on Earth.*

*It is now our generation's task to carry on what those pioneers began. For our journey is not complete until our wives, our mothers, and daughters can earn a living equal to their efforts. Our journey is not complete until our gay brothers and sisters are treated like anyone else under the law – for if we are truly created equal, then surely the love we commit to one another must be equal as well."*

Of course, many churches can only be described as hopping mad, but especially so those loving Catholics, who will do anything, even skewed, biased surveys to make a point. Take for example the [opinion piece by Chris Meney](#), director of the Life, Marriage and Family Centre in the Catholic Archdiocese of Sydney (of course) in the Sydney Morning Herald and the 'survey' for the [Ambrose Centre for Religious Liberty](#) (read liberty for religious people to discriminate against everyone and anything else they don't like). The article of course is nothing more than a medley of the usual old religious hogwash they push as an argument against same-sex marriage, but it is worth a read even if it is just to give you an insight into their sadly and shockingly medieval mindset.

And of course in Australia there is that wonderful Christian bastion of moral turpitude, the [Australian Christian Lobby \(ACL\)](#), which has been in a holy frenzy working against same-sex marriage and [came out with a priceless reaction](#) to the Australian Labor Party's adoption of support for same-sex marriage as a policy platform (which I personally consider an utter outrage in light of the deplorable conscience vote cop-out, but more on that below). The [ACL maintains its campaign](#) in an attempt to intimidate our politicians on the issue. Jacob Holman, a producer, presenter and newsreader for Melbourne's JOY 94.9, reviewed the ACL's press releases and self-reported media mentions from January to June 2012 and created a very interesting graph illustrating the ACL's bizarre obsession with gays and lesbians:

**ACL press releases and self-reported media mentions (Jan-Jun 2012)**



The [Twitter feed of the ACL](#) is a unique 'treat' and perfect for those who need to be reminded from time-to-time of the very real threat Christian fundamentalists represent to the basic principles and values of our secular liberal democracy and why eternal vigilance is required to protect the human rights we take for granted from the onslaught of religious intolerance.

Thankfully, in their blind hatred and myopic vacuum, religious zealots often overshoot the mark as illustrated by the recent performance of Jim Wallace, the head of the ACL, who caused [public outrage by suggesting that being gay may be as bad \(or worse\) for your health as smoking](#). Things have gotten so bad for the ACL in recent days, that everyday average Australian Christians are literally lining up to distance themselves from it. Bravo Mr Wallace! We could not have done a better job highlighting the bigotry and hatred of the ACL ourselves!

An honourable mention must also go out to the evangelical [Rise Up Australia Party](#) (the political arm of [Danny Nalliah's Catch The Fire Ministries](#)) and the right-wing [Australian Protectionist Party](#).

The Australian Protectionist Party also chimed in on the issue on its [Twitter feed](#) on the morning of 4 December 2011. Unfortunately, later they deleted all their illuminating comments and I will leave it up to your imagination as to what position they may have taken.

While morally deplorable, such hateful and intolerant fringe groups serve an important role in reminding us that the price of freedom is eternal vigilance.

It is worth noting though that as evangelicals, and Christians generally, are [loosing their grip on a better educated Western population](#), where religious ignorance and intolerance is rejected by ever-growing numbers, [they are now focusing their attention, hate, ignorance and intolerance on poor, lesser-educated African nations](#) where they are pushing and [sponsoring numerous anti-gay initiatives](#), including legislation criminalising homosexuality and even the death penalty for being gay. US evangelicals in Africa have also been [responsible for creating an environment that lead to the killing of gay men](#).

There is a documentary titled '[Missionaries of Hate](#)', available online at smh.tv, which provides a deeper insight into the odious growing influence of US religious groups in Uganda, spreading their message of homophobia and hate.

Do I accept religious views as a sufficient reason for denying marriage to gays and lesbians? No, I do not! In fact, my views on religion are set out in my blog entry titled '[Religion and the 21st century](#)', and I don't make a secret of my atheism.

### **Religion, human rights and our secular liberal democracy**

Religions do not have the right to interfere with the civil rights and everyday lives of citizens of secular liberal democratic states, unless a citizen makes a personal choice to live his or her life in accordance with the teachings of a particular religion. Further, such citizens simply should not have the right to then enforce those personal religious beliefs on others. Given the histories of the various religions, they simply have no sufficient moral authority to enforce their prejudices on the rest of us.





Further, gays, lesbians and same-sex marriage has as much to do with 'freedom of religion' as freedom of speech has to do with hate speech. There isn't and there can never be unfettered freedom of religion, especially in circumstances where that concept is insidiously (and may I say in a very 'un-Christian' fashion) attempted to be used to trample on unalienable universal human rights, including the right to be afforded equal rights and protections under the law regardless of one's biological sexuality.

Freedom of religion entitles people to practice their religion unfettered if they so choose, yes

indeed that IS in fact a lifestyle choice as no one is biologically born with any particular religious beliefs, but it does not entitle them to use the freedom of religion concept as a 'weapon' to erode the human rights of others, based on their personal religious beliefs, especially in a proudly secular liberal democratic and socially and politically sophisticated State such as Australia.

In fact one of the main reason why religions are struggling in the 21st century and the tension is increasing between mainstream society and the religious, especially in Western secular liberal democracies, is that while society has been subject to natural human social evolution, religions, to a large extent, have anchored and committed themselves to 'holy' texts supposedly reflecting god's will but in reality reflecting the intellectual capacity and morality of Bronze/Iron Age goat herders ... an entirely unsuitable proposition for 21st century living.

Coming back to the position of the Vatican, and Catholics generally, on the issue just for a moment, one can't help but think that they should try to take on Benetton's 'UnHate' message and try the concept, if only for a single day ... especially in light of the [Pope's most recent hateful and intellectually and morally bankrupt comments on same-sex marriage](#).

You never know, they may even like it! After all that troublemaker, activist, socialist character called Jesus they are always banging on about was into it ...

Yes, I know that the image below causes the Vatican, and Catholics generally, great offence. But I am also greatly offended by their continued attempt to deny my human rights and to demonise me in the community (not to mention their [ongoing utterly hypocritical and appalling dealings with sexual abuse within their own ranks](#)).

The reality is, that with their ignorant, medieval, hateful rhetoric, religions, including Christians and Catholics, have effectively declared open hostilities against gays and lesbians and the bedrock principles of our secular liberal democracy. In response it's time that we use our natural attributes of eloquence and intelligence as a 'weapon' to counter this evil influence on humanity. In other words, let there be no more 'Mr. Nice Gay'. There is time for a more focused and candid response

to evil religious influence, especially when it comes to same-sex marriage and the attempts to deny equal marriage rights on the basis of religious pseudo-moralistic ramblings.

It seems to me that nothing represents a bigger threat today to our secular liberal democracies and the liberties we have taken for granted for so long than religious fundamentalists and extremists, no matter what religion or belief, and same-sex marriage has become a major battleground in a war that currently rages between our secular liberal democracy and its religious factions.

We have all witnessed the horrific results of religion-based autocratic States, and the effect such religion based political systems have, on people's human rights in the Middle East where separation of church and State has not yet developed.

I am of the firm belief, based both on their public comments and conduct, that true conservative Christians aren't really interested in secular liberal democracy; instead they really want us and country under THEIR god ... kind of a Christian Iran ... and that concept truly frightens me.



The stark reality is that the only difference between our extremist Christians and the extremist Muslims of the Middle East is that we are lucky enough to have functioning secular liberal democracies in place to keep our extremists in check ... just.

[The Christian Democratic Party \(The Fred Nile Group\)](#), [Family First](#) and [Rise Up Australia](#) are just a few examples of evangelical Christians attempting to co-opt our secular liberal democratic political system to further their vision of a Christian Australia under biblical rules; thankfully without any overtly significant results ... so far. They do seem to conveniently overlook the fact that Western civilisation has already experimented with living under biblical rules. Unfortunately, that experiment didn't work out too well for humanity and that period of human history is commonly referred to as the Dark Ages and the Inquisitions. On the bright side, that oppression and suffering gave birth to the renaissance and the modern humanist movement.

Admittedly, there are incredibly good and decent religious, including Christian, people out there. However, religions, including Christianity, has no exclusivity on human goodness. Believing in a 'god' never has been and never will be a prerequisite for, or the only source of, human 'goodness'. In fact, I question the true value and real nature of 'goodness' that's merely the result of fear of judgment by a supposed deity.



On the other hand, and incredible amount of damage, pain and suffering is being inflicted out there by religion or, more accurately, by those persons and religious organisations that exploit and use religion to further their own twisted agendas.

Unfortunately, the damage caused by the agenda-driven, corrupted and insidious forces of organised religion are just too great to be balanced out by the work of the genuinely good religious, including Christian, people who work tirelessly trying to make the world a genuinely better place.

And those who consider my comments about Christianity, and religions generally, blasphemy, consider this: [blasphemy is an indispensable human right](#).

### **Homophobia, nature and homosexuality**

The churches and the garden variety of other bigots often complain that they are unfairly labeled as 'homophobic' as soon as they challenge our quest for marriage equality. Let me quote [Dr Max Pemberton](#) on the issue, who notably stated the fact that 'homosexuality is not a pathology, but homophobia, given that it's a phobic condition, is' (this is an example of the eloquence and intelligence I refer to above).

To me, the definition of homophobia also raises the serious question whether a person who is a homophobe fit for public or any other office where they have a role in the discourse on the direction our society takes?! After all, homophobia is defined as a 'phobic' condition, which is an anxiety disorder causing *irrational, persistent fear* ... is that really the best qualification for public office?!

Interestingly, there is now also growing scientific evidence indicating that homophobes are in fact fuelled in their hatred and violence against gay women and men by their own suppressed homosexual desires:

- [Is homophobia associated with homosexual arousal?](#) (Journal of Abnormal Psychology, 1996 Aug 105(3) 440-5); and
- [Homophobic men most aroused by gay male porn](#) (Psychology Today, 9 June 2011);
- [Homophobes might be hidden homosexuals](#) (Scientific American, 10 April 2012).

But then, when did truth, scientific research and facts ever got in the way of some good old-fashioned, uninformed, amoral religious bigotry and hatred? After all, as the great George Bernard Shaw put it in his 1917 play, 'Annajanska': 'All great truths begin as blasphemies'.

I would also like to address briefly the segment of the population which relies on howls of 'it's not natural', each and every time homosexuality is raised, let alone same-sex marriage is mentioned. A lot of things are arguably not 'natural'. Pacemakers, in vitro fertilisation, artificial hips ... and most food products at your local supermarket, just to mention a few. But setting bad jokes aside, a list of the unnatural that surrounds and supports us in our lives would be potentially endless.

Nevertheless, homosexuality IS perfectly natural! In fact to date, [homosexual behaviour has been documented in over 1,500 species!](#)

There is also growing scientific evidence to the effect that homosexuality is a largely [genetic predisposition and not a 'chosen behavioral path'](#). Of course there will be the usual suspects who will not accept this position, regardless how much scientific evidence is produced that is contrary to their beliefs. [Cognitive dissonance](#) can be an insidious psychological human trait.

On the other hand, only one animal (seemingly no matter how evolved) has been documented to display homophobic behaviour: humans. So which one is more 'unnatural'?!

Of course some will respond to this by saying that some species also eat their young and engage in intra-species devouring (cannibalism), so is that natural too then? Well, it is 'natural', in fact we humans have also engaged in both of these behaviours in our distant history and there was a time when such behaviour was culturally and socially acceptable.

As we evolved, we formed societies and developed cultural and social norms that affected (by enhancing or limiting) many aspects of our lives. However, these cultural and social norms are not frozen in time and they continue to evolve with humanity.

In the case of murdering our young, or fellow human beings generally, given the consequences of such actions, there was a significant social benefit in making those actions socially unacceptable and a crime. Unfortunately to the naysayers, there is no comparable social utility in applying the same approach to sexual behaviour between consenting same-sex adults.

Another relatively recent (for example, [homosexuality only became legal in NSW in 1984](#)) and relevant example of this cultural and social evolution, and the progress we are capable of as human beings unburdened by ignorance and hatred, is the fact that homosexuality itself is no longer illegal in the progressive secular liberal democracies of the world, much to the disappointment and often outright disdain of those who retain archaic religious beliefs.

Admittedly, having used the term 'evolution' in this context is misleading though as this 'inevitable' cultural and social change was the hard-earned result of a long-term, often controversial campaign for equality, opposed until the bitter end by the very same groups that now oppose same-sex marriage.

### **THAT really old (offensive) chestnut ...**

There is also an ironic, often downright criminal, hypocrisy in many oppressive cultures that openly deride homosexuality, where the very people who publicly oppose homosexuality are often found to [secretly engage in homosexual acts](#) or, even worse, in criminal pedophilia, an appalling example of the latter being the [dancing boys of Afghanistan](#) (yes, culturally, religiously and socially conservative Muslim Afghanistan).

Thankfully most of the population, at least in the West, have now learned to [differentiate pedophilia from homosexuality](#) to the great derision of the homophobe and/or religiously inclined who generally [still falsely and maliciously often talk of these two interchangeably](#).

There is also a variation on this offensive theme, which suggests that same-sex marriage would somehow **lead** to legalised paedophilia!

I do wish that homophobes would get it through their thick, intolerant skulls that 'homosexuality' as the term applies in the marriage equality fight context is a naturally occurring sexual attraction between consenting adults of the same sex ... the emphasis being on **two consenting adults!**

Paedophilia may involve heterosexual or homosexual attraction, **but** one of the parties is a child, an underage person who is deemed by society (based on scientific markers of human development and maturity) not to have developed sufficient emotional and sexual maturity to be in a position to give consent to a sexual relationship with an adult, whether female or male.

Legalising the recognition of the relationship between two consenting adults of the same sex has no bearing whatsoever on the status of paedophilia, being an act of sexual violence, rape perpetrated on a child incapable of giving consent ...

Consequently, this argument is beyond ridiculous because it effectively suggests that the legalisation of the recognition of relationships between two consenting adults of the same sex will lead to the legalisation of rape! An imbecilic and preposterous proposition ...

**... and let's not forget that infamous 'slippery slope' ...**

Of course there is also that other stock-standard 'argument' religious zealots pull out time and time again, the 'slippery slope' fallacy of: 'today the gays, tomorrow brothers and sisters, fathers and daughters, men and animal, bigamy, etc'. For example, who can forget that charming, infamous [same-sex marriage will lead to bestiality argument from Liberal Senator Cory Bernardi](#).

I am going to simply assert that this argument is so patently ridiculous that it deserves no response. But in any event, as you will see below, numerous liberal democracies in the world have allowed same-sex marriages for some time now and the practical experience in those nations is contrary to this old and plain silly contention.

**... and finally, Jim Wallace's suggestion that being gay may be as bad (or worse) for your health as smoking ...**

While I made my disdain for Jim Wallace and the ACL very clear above, he did raise a point I believe is worth addressing. Jim Wallace is [quoted to have said the following](#):

I think we're going to owe smokers a big apology when the homosexual community's own statistics for its health – which it presents when it wants more money for health – are that it has higher rates of drug-taking, of suicide, it has the life of a male reduced by up to 20 years ...

Yes, indeed the gay community does have some health issues, including still relatively high HIV infection rates, [higher than average rates of youth suicide](#) and, admittedly, drug use. But have you ever wondered why that may be?

What do you think it does to the mental health of a group of people if another group of people constantly asserts to them that they are a sick abomination, simply because of who and what they are (even if that view is based on nothing more than a primitive, 2000-years-old fable).

I would argue that minority groups that are alienated and excluded from mainstream society by hate, discrimination and inequality, are highly likely to suffer poor health outcomes primarily due to that alienation, exclusion, hate, discrimination and inequality. Another salient example of this theory I think would be [Australia's indigenous population](#) with their lower than average life expectancy and high rates of diabetes, heart disease and other ailments.

For example:

- what better prevention for HIV infection than the promotion of stable, long-term and monogamous relationships, by showing acceptance for same-sex relationships by legalising same-sex marriage; and
- what better way to reduce gay youth suicide and drug use in the gay community than by improving the mental health of lesbians and gays by reducing the hate and discrimination they have to suffer and the ignorant stigma society has attached to homosexuality for centuries?

In fact, even though same-sex marriage has only been around for a very short time, and only in a few places, medical evidence showing that same-sex marriage improves the health outcomes of lesbians and gays is growing:

- [Legalising gay marriage may improve health and reduce healthcare costs](#) (The Guardian, 7 February 2013);
- [Why gay marriage is healthy](#) (philly.com, 28 May 2012);
- [Legalizing gay marriage is good for public health, studies show](#) (LA Times, 9 May 2012);
- [Psychologists urge support of gay marriage as beneficial to mental health](#) (The Australian, 23 December 2011);
- [Gay marriage improves health](#) (BBC News, 16 December 2011); and
- [Effect of Same-Sex Marriage Laws on Health Care Use and Expenditures in Sexual Minority Men: A Quasi-Natural Experiment](#) (American Journal of Public Health, February 2012, Vol. 102, No. 2, pp. 285-291).

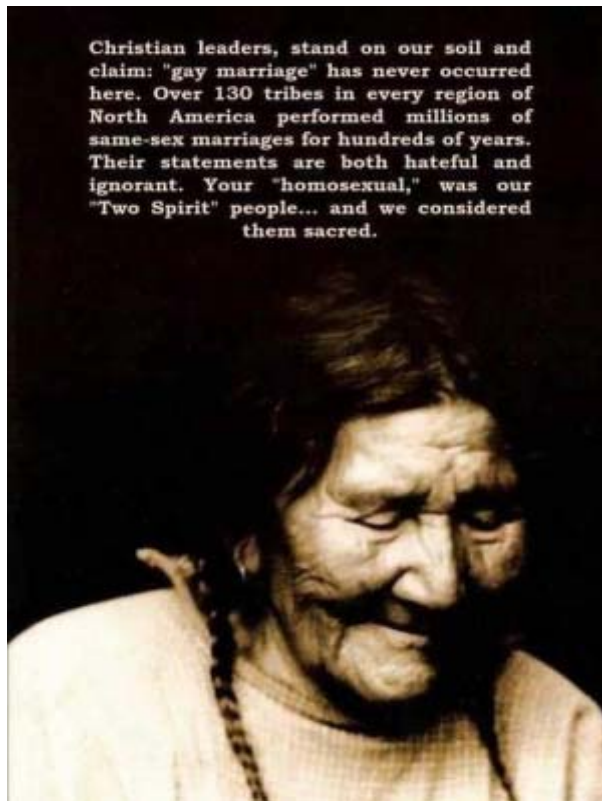
It is also worth noting that the so called 'Gay Obituary Study' I understand Jim Wallace has relied upon to make this particular assertion conducted by Paul Cameron, the President of the [Family Research Institute](#), has been [thoroughly discredited](#) and does not comply with any basic scientific standards. It is also of some relevance in this context that the Family Research Institute is designated a hate group by the Southern Poverty Law Center and that [Paul Cameron](#) himself has

been dropped by the American Psychological Association from its membership in 1983 for a violation of the Preamble to the Ethical Principles of Psychologists.

But let's face it, no matter how 'concerned' Jim Wallace pretends to be about our health issues, this self-confessed practitioner of Christian love really only intends to use the subject as a weapon to further denigrate gays and lesbians and has no interest whatsoever in improving the health of our community.

### **Marriage – what is it?**

[Marriage](#) is an ancient institution, which predates Christianity and other prevalent religions, and over the centuries of human history has been subject to different cultural contexts and many



transformations around the world. It is an institution that evolved with humanity and it is capable of accommodating more change, including same-sex relationships.

Many [indigenous cultures valued gays and lesbians](#) for their invaluable and unique contribution to their society and even considered a homosexual child a 'gift'.

It was even common practice in some cultures for gays and lesbians to be paired up with a partner of the same-sex (for example, [the two-spirit people of the Native Americans](#)) ... at least until their culture was contaminated and compromised by the value system of invading conservative Christian missionaries and colonisers.

The institution itself is capable of interpretation, depending on cultural context, and change.

It is the people who are opposing such changes on religious grounds who are simply a temporary cog in this further evolution.

Marriage in more recent human history was co-adopted by religion and early social engineers and filled with restrictions, including on the basis of class and race, primarily as a mechanism of social, political and economic control. This in itself highlights the hypocrisy of those crying out liberal social engineering when the notion of same-sex marriage is mentioned.

In fact there is even arguable evidence for the proposition that [there was a time when same-sex marriage was a Christian rite](#).



Of course such propositions, like all propositions made on the basis of centuries old religious texts, rely on the interpretation of language and cultural norms in a historical context.

There was a time in the not too distant history when black and white people couldn't marry and those who opposed this restriction were met with ridicule, scorn, legal prosecution and even deadly violence. There is a shocking sentence (by today's standards) in a 1959 US judgment (that's right, only 53 years ago!) sentencing an interracial couple to one year in prison, with the sentence suspended for 25 years on the condition that the couple leave the state of Virginia, in *Loving v. Virginia*, 388 U.S. 1 (1967). Nevertheless, the past is worth remembering so that perhaps we can learn from our own human history of discrimination, hate and intolerance:

*'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 marriages. The fact that he separated the races shows that he did not intend for the races to mix.'*



Incredibly, as recently as in 2011 Christian bigots [passed a resolution in their Baptist congregation banning mixed-race couples in Kentucky](#), which was then declared null and void after it was determined that the new bylaw could breach local, State and national law! You think?!

Interestingly, concerned academics from various fields of study highlighted disturbing parallels between the arguments made against interracial marriages by religious conservatives over 50



years ago and the arguments now being made by those same religious conservatives against gay marriages, including:

- [Gay marriage opponents mimic objections to interracial marriage, Professor Forde-Mazrui says](#), Virginia Law; and
- [Why the ugly rhetoric against gay marriage is familiar to this historian of miscegenation](#), George Mason University's History News Network.

In many cultures marriage between classes was (and in some places still is) culturally (and even legally) prohibited and those breaching the 'rule' were and still are often the subject of sanctions and, again, violence.

Catholic doctrine today still denies marriage to people who are divorced and many religions refuse to perform a religious marriage ceremony between people of different religions, unless one party 'converts' first.

Due to the range of archaic religious restrictions the institution evolved and civil marriage was born, sanctioned by the State, which thankfully removed the monopoly of the churches.

Over the decades [civil ceremonies have overtaken religious wedding ceremonies](#) as the preferred choice by about two-thirds of those who get hitched in Australia.

There is simply no reasonable (i.e. non-religious) objection why the institution of State sanctioned civil marriage could not accommodate same-sex relationships.

There are many who argue that same-sex marriages represent a danger to the institution of marriage. Unfortunately, the only support they can muster for such arguments is some pseudo-moralistic (and edging on the insane) rambling about marriage being an institution for recognising relationships between men and women (as God intended)?!

I would also argue that the pseudo-sociological contention that marriage is exclusively an institution for the establishment of a 'family' unit as an environment for the rearing of children is deeply flawed and holds no salvation for the naysayers.

Marriage has served many social and political purposes in its long and troubled history, some positive, some negative, including to produce a (male) heir, protect inheritance, to consolidate wealth and power, for economic safety or to subjugate women ([even a female child in some cultures!](#)) to men, but even those purposes have evolved (and arguably improved) over time as many these days get married simply for love ... perhaps the purest reason of all to decide to get married.

## The evolution of marriage



Marriage, and relationships generally, have undergone significant changes over the last few decades, mirroring the evolution of our modern society. These days many heterosexual couples make the conscious decision not to have children, but we would never deny them the right to marry on the basis that it's an institution designed for the upbringing of children.

Others find that they are unable to conceive for biological reasons, but no one would ever dare to argue that this, in any way, devalues their love or marriage.

There are also many happy couples who live their lives together contentedly, raising healthy and successful children, but shun the idea of marriage due to their own personal convictions and of course there are countless single parents doing an amazing job raising their children.

On the other hand, an increasing number of [gay couples raise children](#); some choose to do so, while others become parents through the vicissitudes of life affecting family members or close friends.

Consequently, if marriage is really such an indispensable institution for the healthy and successful upbringing of those children (which is a questionable proposition to begin with), why then would anyone wish to deny those children their same-sex parents being able to enter into a State (not Church) sanctioned marriage in order to provide that supposedly stable and nurturing environment?

Finally, just as not all heterosexual couples decide to have children, not all same-sex couples will decide to raise children either. For example, personally I have no desire to have children, but just as heterosexual couples who marry, despite having no intention to have children, I do have a strong desire to marry my loving partner of many years.

And while we are on the subject of children raised by same-sex parents, let me be absolutely clear: there is [no credible empirical evidence whatsoever that those children are disadvantaged in any way by virtue of being raised by same-sex parents](#), contrary to any ramblings by Christian conservatives. The few 'research studies' they do refer to periodically on this issue have been by-and-large scientifically discredited (just as generally all their other 'scientific research' studies that they have used in the past to attack the gay community).

This is just another example of the baseless, ignorant and shrill scaremongering we have come to expect from religious zealots as they desperately continue to reflect their medieval prejudices onto lesbians and gays.

Admittedly, children of same-sex parents do experience some disadvantages and discomfort, but as a result of a homophobic society through laws that continue to discriminate against their loving families, bullying at school and hateful public messages from religious and political leaders to the effect that their families are inferior. But this type of disadvantage is just another example of the damage hate and homophobia is causing to society and is not a reflection on the parenting capabilities and skills of same-sex couples and simply further reinforces the argument for full marriage equality.

Allowing same-sex marriages will not bring on the apocalypse and the world will continue as it always has, for at least the foreseeable future, barring the possible effects of climate change and the fact that one day, billions of years from now, our sun will cease to support life on our little blue planet ...

There are [numerous progressive liberal democracies around the world where same-sex marriages have been legal](#) for some time now, including Argentina, Belgium, Canada, Denmark, Iceland, the Netherlands, Norway, Sweden, South Africa and even staunchly Catholic Portugal and Spain (and [the list is expected to grow](#)). The legality of same-sex marriages in those countries had none of the negative social effects raised by religious conservatives in opposition. France and the United Kingdom is likely to join this group of countries within months.



As of November 2012 [same-sex marriage is legal in nine US states](#), Connecticut, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New York, Vermont and Washington, as well as the District of Columbia and two Native American tribes (and in addition, Rhode Island recognises same-sex marriages performed in other jurisdictions).

Frankly, the hysteria surrounding same-sex marriage would almost be amusing if it wasn't so ill-informed and well, I will call it what it really is ... bigotted, stupid and lacking any intellectual strength.

The real threats to marriage are men who abuse their wives and children, people who cheat on their partners and people who are willing to have affairs with people whom they know are married.

The most likely contribution same-sex marriages will make to society in the long-run will be the reinforcement of the concept of a monogamous and life-long commitment of two people who love

each other and wish to travel through life together. And as for the effects on gays and lesbians, there is research emerging now that indicates that [same-sex marriages have a beneficial health effect](#), which can only benefit society as a whole.

### **Same-sex marriage and the utter hypocrisy of our leaders**

Our esteemed Prime Minister, Julia Gillard, argues that the issue of gay marriage is a deeply personal (meaning 'religious') issue and that is why she advocates a conscience vote.

Well, no, gay marriage is *not* a personal issue. It is a discrimination, human rights, equality and social justice issue (and I think I made it clear above where I stand on religions interfering with the fundamental human rights of citizens in a secular liberal democratic society). Did we have a conscience vote on [racial discrimination](#)? Did we have a conscience vote on [women's voting rights](#)? As noted above, a liberal democracy is 'liberal' because it does not subject the protection of basic human rights to a collective deliberation process; rather such rights are constant, inherent, universal and unalienable and are simply not up for debate or to be subjected to a popularity contest.

This view has also received support from The Sunday Age in their editorial titled '[When a conscience vote is a political cop-out](#)' and I welcome such prominent and public support for our just cause.

She also argues that opinions are diverse on the issue and that is another reason why the issue should go to a conscience vote. I disagree again. There are many issues that attract diverse opinions. For example, the recent carbon tax, yet our PM did not insist on a conscience vote on that issue. How about the sale of uranium to India? Certainly the views on that issue are quite diverse; will we see a conscience vote on that issue?

Tony Abbott's position on the issue is also particularly undemocratic. While [some members of the Liberals are keen to be allowed a conscience vote](#), including [Malcolm Turnbull](#), no doubt largely due to the [overwhelming support \(72.7%!\) for same-sex marriage in his own electorate](#), the seat of Wentworth, my Federal electorate, [Tony Abbott is giving clear signals that a conscience vote is out of the question](#) for members of the Liberals.

Curiously, conservative politics and same-sex marriage are not mutually exclusive as illustrated by New Zealand where, under a conservative government, [same-sex marriage is about to become a reality](#).

There is one ray of possible sunshine in Australia's conservative politics: the new generation of young Liberals, most of whom appears to have a more enlightened approach to (some) social issues as illustrated at the 2013 conference of Australian Young Liberals in Hobart where [they called for the party to allow a conscience vote on the issue!](#)

I think an acknowledgment must also be given to other groups and individuals both at the State/Territory and Federal levels, such as:

- Tasmania's Labor Government which has recently tried to [take steps to legalise same-sex marriage](#) in that State;
- the ACT's Labor Government, which has [passed and strengthened civil union legislation](#) and has further plans to take steps to [legislate for gay marriage](#);
- South Australia, where the Labor Premier has [indicated an intention to legislate for same-sex marriage](#);
- NSW, where the Upper House has passed a [bipartisan motion calling on the federal government to allow same-sex marriage](#);
- the Queensland branch of the Australian Labor Party, which has [passed a motion calling on both federal Labor and the ALP national conference to support same-sex marriage](#);
- the Victorian branch of the Australian Labor Party, which has [voted in support of same-sex marriage](#);
- the Western Australian branch of the Australian Labor Party, which has [passed a motion supporting same-sex marriage](#);
- Malcolm Turnbull, the Federal Liberal member for the NSW seat of Wentworth, who [supports same-sex marriage](#); and
- Warren Entsch, the Federal Liberal member for the Queensland seat of Leichhardt, who is also [a supporter of same-sex marriage](#).

With polls now consistently showing majority support for same-sex marriage and [an overwhelming support for at least a conscience vote on the issue](#) by the Australian public, this whole dismal process also brings our so-called representative secular liberal democracy into very poor light indeed.

This saga illustrates that our politicians can turn around and make decisions based on their own personal religious beliefs or party political agenda rather than representing their electorates or at least being able to argue that they are applying impartial and thoughtful public policy unaffected by religious ignorance and intolerance for the benefit of the nation. That's not the sign of a healthy, functioning secular liberal democracy.

### **What happened in Tasmania?**

As noted above, Tasmania's Labor Government has recently tried to take steps to legalise same-sex marriage in that State. While the legislation has [passed in the lower house of Parliament](#), the bill was [defeated in the Upper House](#) by a margin of 8-6.

One major, and controversial, theme of the debate in the Upper House appeared to be whether the bill was constitutional. Many who spoke expressed a view that highly likely it wasn't and also

expressed a concern about the likely costs of a potential High Court challenge to the constitutionality of the legislation.

In respect of these concerns I note that:

- there are only seven people in Australia who can decide whether a legislation is constitutional ... they are the justices of the High Court of Australia and none of them sit in the Upper House of Tasmania's Parliament;
- there have been plenty of examples of legislation being passed by lawmakers in circumstances where doubts have been raised about the constitutionality of the law (most recently the Commonwealth's [plain packaging legislation](#) for tobacco, which the High Court has in fact found constitutional despite the doubts);
- in any event, it should not have been presumed that a constitutional challenge to the legislation was a fait accompli;
- it sets a dangerous precedent in a liberal secular democracy when we subject a legislation dealing with the equality of citizens to concerns about the costs of a potential challenge to the law and may I also observe that gays and lesbians pay taxes too; and
- finally, there are some serious and seemingly well founded concerns that the [conservative, religious opponents of the bill have engaged in their usual misleading, unethical and underhanded conduct on the issues of constitutionality and the potential costs of a possible legal challenge](#) and that misinformation has very likely affected the votes of a number of independent Tasmanian MLCs and thus have caused the bill's demise.

### **Civil unions – decaf anyone?**

As for those who argue that, as a compromise, gays and lesbians should be allowed to have civil unions instead of marriage, I would say that such a position, again, is nothing less than intellectual, moral, political and social cowardice. It entrenches and institutionalises the view held by some that a same-sex relationship is somehow of lesser value than the relationship of a heterosexual couple and just [continues a long line of entrenched discrimination](#).

Put in simple terms, civil unions for same-sex couples instead of a marriage is a little bit like decaffeinated coffee – it has the flavour of and it looks and smells like the real thing but it lacks the substance of the real thing.

Consequently, in my view [the passing](#) of the [Civil Partnerships Act 2011](#) (PDF) in Queensland created little substantial reason for celebration. Admittedly, the passing of the Act demonstrated progress in thinking on discrimination, equality and social justice which must be acknowledged. Also, in the current Federal legal structure it is the most any State can achieve in this area.



However, in reality, the Act, especially as amended by the current conservative government, simply places the legal stamp of inferiority on gay relationships, as being something much lesser than a marriage.

**Relationship registers ... or the truth about cats and dogs (and cars)**

Finally, a mention must be made of the various 'relationship registers' that have been established (for example by the City of Sydney and the State of New South Wales in Australia, to mention just a couple). While the effort is greatly appreciated, the fact is that one 'registers' a car, a dog or a cat ... not loving, caring relationships. While I believe that such registers are established with good intentions, the fact is that they put loving, caring relationships on the same level as getting a car or a pet. That sums it up I think ...

Kind regards,

Stephen Sander

Citizen, lawyer, homosexual