

# IN DEFENCE OF MARRIAGE

By Senator Guy Barnett

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The ACT Labor Government's revised and now passed Civil Unions legislation is marriage by another name and a thinly disguised attempt to undermine both the institution of marriage and the Federal Marriage Act.

Section 5 of the ACT Civil Unions Bill states: *'a civil union is different to marriage but is to be treated for all purposes under Territory law in the same way as a marriage'*. This says it all. It cannot be that a State or territory can usurp a federal law simply by using different words. Section 51` (xxi) of the Constitution assigns marriage to the Commonwealth. No number of weasel words can change that. The ACT law, as it is written, should be struck down.

The ACT Government had its chance to avoid conflict with federal law, but alas the changes to the bill were entirely insubstantial. I predict there will be amending of the Federal law to defend the institution of marriage as the community knows it.

The traditional institution of marriage is the real victim in this debate. The ACT Government's decision raises the status of same sex couples' civil unions to that of marriage. It depreciates and demeans marriage. A gay union cannot and should not be equated with marriage.

The Civil Unions Act effectively makes the words *'civil union'* and *'marriage'* interchangeable. The preamble to the Act allows: *"...two people who choose not to be married, or would not be entitled to be married are entitled to enter into a legally recognised relationship that is to be treated under Territory law in the same way as marriage"*.

In addition Section 19 (1) of the Act states that...*"a union entered into by two people under the law of a foreign country, that cannot be recognized as a marriage in Australia because of the Marriage Act 1961 is a civil union for the purposes of Territory law."*

The ACT Government is thumbing its nose at the Federal Parliament big time on this effort. They do not even impose a residency requirement, so any Australian same-sex couple married overseas could get their union registered in the ACT. The Federal Parliament's Marriage Amendment which I proposed and authored, and which passed with Coalition and Labor support in 2004, was designed to stop the recognition of homosexual marriages overseas.

The procedures to enter into a civil union mimic a marriage. The ACT law even establishes its own civil union celebrants to officiate at the ceremony. Marriage is a bedrock institution worthy of protection. Marriage has endured for thousands of years and across cultures and religions. It is a social institution which benefits the family members and society.

Marriage is a rock solid institution. It is not a fashion to be updated. It provides for stability in society. It provides a solidly built roof under which children are nurtured and grow. It specifically benefits the children and is designed to ensure their welfare is maximised. There should be no doubt about its definition.

My proposals in 2004 resulted in the Marriage Act being defined as a union between a man and a woman to the exclusion of all others. This amendment arose from a letter I drafted to the Prime Minister and signed by 30 of my Coalition colleagues. The Marriage Act now does not recognise same sex marriages and nor should it recognise anything else that is essentially marriage by another name.

As the Prime Minister Hon John Howard said on 8 March 2004 (Radio 2UE): *"I think there are certain benchmark institutions and arrangements in our society that you don't muck around with, and children should be brought up ideally by a mother and a father who are married. That's the ideal."*

*"I mean I'm not saying people who are unmarried are incapable of being loving parents. Of course they are. I mean I believe in the maximum conditions of stability for people who have children"*.

The onus is now on the Federal Parliament to pass legislation striking down the ACT law as it is written and preventing any State and Territory from enacting legislation that gives same sex relationships an equivalent or similar level of public recognition or legal status of marriage.

Recently on ABC radio ACT Chief Minister Jon Stanhope said: *'I've gone to enormous lengths, at every stage, to make the point that civil unions are not marriage and can never be marriage.'*

Ironically, this statement contradicts his own ACT Civil Unions Act. If the Howard Government did nothing there would be nothing to stop every State and Territory in our nation from passing a law similar to the ACT legislation.

Along with others I will be lobbying my Government to introduce laws to strengthen, uphold and protect marriage, for which the Australian Government has proper constitutional authority.

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