CONTENTS

1	EXE	CUTIVE SUMMARY	8
2	INT	RODUCTION	10
3	MA	RRIAGE EQUALITY IN CONTEXT	15
3.1	A	Rose by Any Other Name?	15
3.2	С	ivil Institution and Religious Sacrament: The Distinction	18
3	.2.1	The increasing secular nature of marriage	20
3	.2.2	Tony Abbott and secular marriage	22
3	.2.3	A historical note on the sacramentalism of marriage	23
3.3	Ν	Aarriage and Family Law as Beneficial Legislation	25
3	.3.1	Marriage (Overseas) Act 1955	25
3	.3.2	Matrimonial Causes Act 1959	26
3	.3.3	Marriage Act 1961	27
3	.3.4	Hague Convention and Marriage Amendment Act 1985	28
3	.3.5	Family Law Bill 1974	29
3	.3.6	Family Law Amendment Bill 1983	29
3	.3.7	Marriage Amendment Bill 2004	30
3	.3.8	Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008	32
3	.3.9	A note on some judicial decisions	34
4	то\	NARDS MARRIAGE EQUALITY	36
4.1	S	upport for Same-Sex Marriage: Old and New	36
4	.1.1	The Media	36
4	.1.2	The Church of State: the Anglican Communion	39
4	.1.3	Political leaders – support among Liberals and Conservatives	42
4	.1.4	Public Opinion	46
4.2	S	ame-Sex Couples throughout History and in Contemporary Australia	51
5	INT	ERNATIONAL RECOGNITION OF SAME-SEX MARRIAGE	56
5.1	V	Vestern Europe	56
5.2	т	he Commonwealth of Nations – Past and Present Members	60
5.3	U	Inited Kingdom	61
5.4	U	Inited States of America	71
5	.4.1	The slowly emerging movement for marriage equality	75
5	.4.2	Action at the Federal level	78
	5.4.	2.1 "Defending marriage"	78
	5.4.	2.2 Overturning DOMA	79
	5.4.	2.3 Immediate outcomes of the DOMA decision	81
	5.4.	2.4 A new Federal approach: a new frontier in Civil Rights	82
5	.4.3	Same-sex marriage at the State level	84
	5.4.	3.1 Action for same-sex marriage preceding Windsor	84

	5.4.	3.2 Action for same-sex marriage post <i>Windsor</i>	88
	5.4.	3.3 Same-sex marriage: on and off	96
	5.4.	3.4 Having it both ways	101
	5.4.	3.5 Other action at the State level Post-DOMA	101
5	.4.4	An American Constitutional Right to same-sex marriage?	104
5	.4.5	Mapping same-sex marriage in America	105
5.5	A	Little History – with an Australian Connection	107
5.6	C	entral and South America	109
5.7	A	sia and the Middle East	111
5.8	Ir	nplications of International Recognition for Australia	113
6	DE/	ELOPMENTS IN AUSTRALIAN JURISDICTIONS	117
6.1	D	evelopments at the National Level	117
6	5.1.1	Slowly retreating from the 2004 Amendments	117
6	5.1.2	The Commonwealth - 2012 Senate Committee Report and aftermath	120
6	5.1.3	Same-Sex Marriage Bills – Parliamentary debates	122
6	5.1.4	Extending protection from discrimination	129
6	5.1.5	The 2013 Federal Election and its aftermath	131
6	5.1.6	The Australian Labor Party – Beware the "Shoppies"	136
6.2	S	tates and Territories	137
6	5.2.1	Australian Capital Territory	138
	6.2.	1.1 Civil partnerships and civil unions	138
	6.2.	1.2 Same-sex marriage	140
	6.2.	1.3 The High Court decision	143
6	5.2.2	Tasmania	146
6	5.2.3	South Australia	148
6	5.2.4	Queensland	149
6	5.2.5	New South Wales	150
7	OPF	OSITION TO SAME-SEX MARRIAGE	155
7.1	R	eligious Belief and Same-Sex Marriage	156
7	.1.1	The decline of religion and religious belief	156
7	.1.2	Diversity of religious belief	160
7.2	Ρ	irating Penzance: Deconstructing a 19 th Century Definition of Marriage	162
7	.2.1	The long process of social history	162
7	.2.2	Constituent elements of the definition of marriage	163
	7.2.	2.1 Marriage as "understood in Christendom"	163
	7.2.	2.2 the union of a man and a woman Same-sex marriage in history	164
	7.2.	2.3 the union of a man and a woman Equal partners?	167
	7.2.	2.4 to the exclusion of all others	167
	7.2.	2.5 voluntarily entered into Freely chosen?	170

7.2	.2.6 voluntarily entered into A civil contract	171
7.2	.2.7 for life	172
7.2.3	Onward to Penzance	175
7.2.4	Not so much a definition as a defence	175
7.2.5	Divorce Australian style	176
7.3 F	Pirating Penzance – Some Words from the High Court	177
7.4 [Defending "Traditional Marriage"	178
7.4.1	With and without children	179
7.4.2	"For the good of the children"	179
7.4.3	Married, but not living together	179
7.4.4	Living together, but not married	180
7.5 1	The Procreation Argument	183
7.6	Argument exploded: companionate marriages ordained by God	185
7.7	Addressing Concerns about Same-Sex Parenting	186
7.8 l	Jnspoken Truth: It's not about Marriage, it's about the Homosexuals	198
7.8.1	The Roman Catholic Church	198
7.8.2	Anglican Church	206
7.8	.2.1 United Kingdom: the Church of England	207
7.8	.2.2 Australia: the Anglican Church	210
7.8.3	The Anglican Church in Sydney	212
7.8.4	Other Religious Denominations	214
7.8	.4.1 Judaism	214
7.8	.4.2 Islam	215
7.8	.4.3 Buddhism	215
7.8	.4.4 Hinduism	216
7.8	.4.5 Orthodox Christianity	217
7.8	.4.6 Episcopal Church of the United States	217
7.8	.4.7 Other Christian Denominations	218
7.8.5	Not just the Churches	218
7.9 H	Iomosexuality: the Social Reality	219
7.10 1	The Legal Context	221
7.11 1	The "Radical Argument" Opposing Same-Sex Marriage	222
8 AL1	FERNATIVES TO NATIONALLY LEGISLATED SAME—SEX MARRIAGE	224
8.1 A	Approaching Equivalence but Not Equality	224
8.1.1	Well-intentioned but flawed	224
8.1.2	Separate but equal	225
8.2 F	Relationship Recognition Models: Why Most Don't Measure Up	228
8.2.1	Marriage	229
8.2.2	De facto relationship	229

8.2	2.3	Formal recognition schemes	232
8.2	2.4	The limitations of the alternative schemes	233
8.2	2.5	State-based same-sex marriage	234
9	WH	Y A CONSCIENCE VOTE?	236
9.1	N	larriage / Family Law / Human Reproduction	236
9.2	Т	ony Abbott and Conscience Votes	237
9.3	0	ther Human Rights initiatives	238
9.4	Pa	arliamentary Matters	238
9.5	T	ne Parliamentary Record	240
10	Α	FINAL WORD	241

MAPS AND TABLES

Map 1: Marriage Equality in the USA	106
Map 2: USA – A Legal Overview	107
Map 3: Global Status of Marriage Equality	242

Table 2: Growing support for same-sex marriage46Table 3: Support for same-sex marriage by party affiliation47Table 4: Global perspective on support for same-sex marriage48Table 5: Global perspective on views on harm to society49Table 6: American attitudes towards adultery55Table 7 Percentage stating "no religion" 1901 - 2011157Table 8: People identifying a Christian denomination158Table 9: Church attendance by age158Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182Table 12: Bills/issues on which a conscience vote was allowed 1950-2007240	Table 1: Decline in marriages performed by Ministers of Religion	22
Table 4: Global perspective on support for same-sex marriage48Table 5: Global perspective on views on harm to society49Table 6: American attitudes towards adultery55Table 7 Percentage stating "no religion" 1901 - 2011157Table 8: People identifying a Christian denomination158Table 9: Church attendance by age158Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182	Table 2: Growing support for same-sex marriage	46
Table 5: Global perspective on views on harm to society49Table 6: American attitudes towards adultery55Table 7 Percentage stating "no religion" 1901 - 2011157Table 8: People identifying a Christian denomination158Table 9: Church attendance by age158Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182	Table 3: Support for same-sex marriage by party affiliation	47
Table 6: American attitudes towards adultery55Table 7 Percentage stating "no religion" 1901 - 2011157Table 8: People identifying a Christian denomination158Table 9: Church attendance by age158Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182	Table 4: Global perspective on support for same-sex marriage	48
Table 7 Percentage stating "no religion" 1901 - 2011157Table 8: People identifying a Christian denomination158Table 9: Church attendance by age158Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182	Table 5: Global perspective on views on harm to society	49
Table 8: People identifying a Christian denomination158Table 9: Church attendance by age158Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182	Table 6: American attitudes towards adultery	55
Table 9: Church attendance by age	Table 7 Percentage stating "no religion" 1901 - 2011	157
Table 10: Australian church attendance compared to total population159Table 11: De facto relationships – Organised religion182	Table 8: People identifying a Christian denomination	158
Table 11: De facto relationships – Organised religion 182	Table 9: Church attendance by age	158
	Table 10: Australian church attendance compared to total population	159
Table 12: Bills/issues on which a conscience vote was allowed 1950-2007	Table 11: De facto relationships – Organised religion	
	Table 12: Bills/issues on which a conscience vote was allowed 1950-2007	240