

2016/13: Should Australia hold a plebiscite regarding same-sex marriage?

What they said

'I have no doubt that if the plebiscite is carried as I believe that it will be, that you will see an overwhelming majority of MPs and senators voting for it'

Prime Minister, Malcolm Turnbull

'Why are we spending \$160 million on an opinion poll that the Government is going to ignore?'

Deputy Labor leader, Tanya Plibersek

The issue at a glance

On September 14, 2016, the Coalition Government introduced a Bill into the Parliament for a proposed plebiscite on same-sex marriage.

If the Bill is passed, the question that will be put to the electorate is: Should the law be changed to allow same-sex couples to marry?

Cabinet has agreed that if the Bill passes Parliament, the plebiscite will be held on Saturday, February 11, 2017.

At this point it appears the Bill will pass the lower house but is unlikely to pass the Senate. The Greens and Nick Xenophon's party have both indicated they will not support and it further seems unlikely to be supported by the Labor Party. These three groups combined opposition means that the Bill will not pass the upper house.

The electorate's attitude toward the plebiscite seems to be shifting. Prior to the July 2016 election some 69 percent of voters favoured a plebiscite. Support now appears to be running at less than 40 percent.

From the point of view of those in favour of gay marriage, the whole question has become quite vexed. While many may be opposed to a plebiscite and would prefer a direct, free vote within the Parliament, there is also a large group that believes a plebiscite may be the only means of achieving legalised same-sex marriage in the immediate future.

There is concern that without a plebiscite a same-sex marriage Bill will not be put before the Parliament during this Government's current term or perhaps later. There is also concern that popular support for same-sex marriage may be being dissipated through political squabbling over the plebiscite.

Background

(Much of the information presented below has been abbreviated from the Museum of Australian Democracy and the AustralianPolitics.com Internet site.

The key information can be accessed at <http://moadoph.gov.au/blog/referenda-and-plebiscites-whats-the-difference/> and <http://moadoph.gov.au/blog/referenda-and-plebiscites-whats-the-difference/http://australianpolitics.com/democracy/key-terms/representative-government>)

Differences between a plebiscite and a referendum

1. Voting in referenda is compulsory. This is not always the case with a plebiscite; however, in the instance of the proposed plebiscite on same-sex marriage, voting will be compulsory.
2. It is harder to have a proposition passed via a referendum than it is a plebiscite. In a referendum, for a proposition to pass, it has to be accepted by a majority of Australians overall and majority of the states and territories. For a proposition to be accepted in a plebiscite, all that is usually required is an overall majority.
3. Referenda are binding on the government. This means that if a proposition is accepted in a referendum, it must be supported by the Parliament. A plebiscite is sometimes called an 'advisory referendum' because the government does not have to act upon its decision.
4. Referenda are required for any change to the Constitution or for legislative proposals that would have Constitutional implications. Plebiscites, on the other hand, do not deal with Constitutional questions but with issues on which the government seeks popular approval to act, or not act.

Representative government

The Australian political system is one in which the people elect members of Parliament to represent them; hence we have a system of representative government.

These representatives meet in Parliament and perform a number of functions:

they decide who will govern;

they make laws;

they debate issues;

they make representations on behalf of their constituents to the government and the public service;

they monitor the expenditure of public money and the actions of the government.

The big advantage of representative government is that it allows the citizens of even very large countries to have some influence on their rulers.

However, there is the problem of whether elected representatives should act merely as a relay mechanism for the views of their constituents, or whether they should act more independently, utilising their knowledge and skills to lead their

constituents to a more informed decision that is better for the greater good of the community.

Will a plebiscite result in the popular will being enacted?

If current opinion polls are accurate, a majority of Australians are in favour of same-sex marriage. If a majority of Australians vote in favour of same-sex marriage in a plebiscite then the government has promised to put legislation before the Parliament to amend the Marriage Act to allow same-sex couples to marry.

However, the result in the plebiscite is not binding on MPs. If legislation amending the Marriage Act is ultimately put before the Parliament, MPs are not bound by the result in the plebiscite.

The Australian Electoral Commission will also provide a breakdown of the plebiscite result based upon federal electorates and states. This might lead to MPs voting on the amending legislation based upon the result in their electorate or state.

Internet information

On September 26, 2016, The Sydney Morning Herald published a report titled 'George Brandis warns same-sex marriage could be delayed until 2020s if Labor blocks plebiscite'

The article details the Attorney-General's warning that if the proposed plebiscite is not passed by the current Parliament, any change to the Marriage Act to allow same-sex marriage could be long delayed.

The full text can be accessed at <http://www.smh.com.au/federal-politics/political-news/george-brandis-warns-samesex-marriage-could-be-delayed-until-2020s-if-labor-blocks-plebiscite-20160925-grnwfw.html>

On September 20, 2016, The Conversation published a report by Michelle Grattan suggesting that a clear majority of Australians are now opposed to a plebiscite on same-sex marriage. The article is titled 'If no plebiscite, settle same-sex marriage in parliament: poll'

The full text can be accessed at <https://theconversation.com/if-no-plebiscite-settle-same-sex-marriage-in-parliament-poll-65754>

On September 19, 2016, Overland published a comment by Tad Tietze titled 'The plebiscite and the impasse on marriage equality'

Tietze is a qualified supporter of gay marriage. Though he has reservations about a plebiscite he argues that it may be the best way to achieve an immediate change in the Marriage Act.

The full text can be accessed at <https://overland.org.au/2016/09/the-plebiscite-and-the-impasse-on-marriage-equality/>

On September 15, 2016, The Conversation published a comment by Graeme Orr, Professor of Law, The University of Queensland, titled, 'Why Australians should say 'Yes' to the same-sex marriage plebiscite'.

The opinion piece considers both the manner in which the plebiscite is to be conducted and argues that the Australian electorate should vote 'yes'.

The full text can be accessed at <https://theconversation.com/why-australians-should-say-yes-to-the-same-sex-marriage-plebiscite-65461>

On September 14, 2016, AustralianPolitics.com published the speech Prime Minister Turnbull gave within the House of Representatives introducing the same-sex marriage plebiscite Bill.

The speech gives a detailed justification of the Government's decision to conduct a plebiscite. The full text can be accessed at <http://australianpolitics.com/2016/09/14/turnbull-ssm-plebiscite-bill.html>

On September 14, 2016, The Conversation published a comment by Adam Webster, Lecturer, Adelaide Law School, University of Adelaide, titled 'Explainer: the same-sex marriage plebiscite'

The article considers the manner in which the plebiscite is intended to be conducted and considers some of the problems it may face.

The full text can be accessed at <https://theconversation.com/explainer-the-same-sex-marriage-plebiscite-65218>

On September 5, 2016, Eureka Street published a comment by Father Frank Brennan titled 'Plebiscite the only way forward for Turnbull on marriage equality'

Brennan, who supports same-sex secular marriage, argues that a plebiscite is Turnbull's only political option. The full text can be accessed at <https://www.eurekastreet.com.au/article.aspx?aeid=49832#.V-3pDjUnL7V>

On September 2, 2016, The Christian Federation published a comment by Paul Monagle titled 'Australians must demand to be respected by politicians for a plebiscite on marriage'

The opinion piece argues that the plebiscite should proceed as the Government obtained a mandate to implement it at the last election.

The full text can be accessed at <http://www.christianfederation.net.au/news/index.php/australians-must-demand-to-be-respected-by-politicians-for-a-plebiscite-on-marriage/>

On August 31, 2016, The Catholic Weekly published a comment by Michael Cook titled 'Seven reasons why Australia needs a plebiscite on same-sex marriage'

Cook, who is an opponent of same-sex marriage, surveys a number of reasons why he believes the plebiscite is desirable.

The full text can be accessed at <https://www.catholicweekly.com.au/seven-reasons-why-australia-needs-a-plebiscite-on-same-sex-marriage/>

On August 31, 2016, The Sydney Morning Herald published a series of letters to the editor under the general heading 'Same-sex marriage: plebiscite's not the best way forward'

Most letters focused on how divisive the debate surrounding the plebiscite was likely to be.

The full text can be accessed at <http://www.smh.com.au/comment/smh-letters/samesex-marriage-plebiscites-not-the-best-way-forward-20160830-gr4g7r.html>

On August 28, 2016, The Huffington Post published a report titled 'Turnbull Denies Marriage Equality Plebiscite Is "Doomed"'

The article presents the strong possibility that Labor will not support a plebiscite bill in the Parliament.

The full text can be accessed at <http://www.huffingtonpost.com/2016/08/27/labor-signals-it-will-oppose-same-sex-marriage-plebiscite-repor/>

On June 27, 2016, The Conversation published a comment by Brian Tobin, Lecturer below the Bar, NUI Galway, titled 'Australia doesn't need a plebiscite on same-sex marriage - Ireland's experience shows why'

The comment considers the negative aspects of the plebiscite Ireland held on same-sex marriage. The full text can be accessed at <https://theconversation.com/australia-doesnt-need-a-plebiscite-on-same-sex-marriage-irelands-experience-shows-why-61499>

On April 7, 2016, The Melbourne University magazine, Pursuit, published a comment by Professor Carolyn Evans titled 'Why Parliament should decide on same sex marriage'

The opinion piece argues in detail why a plebiscite should not be held in Australia on the same-sex marriage.

The full text can be accessed at <https://pursuit.unimelb.edu.au/articles/why-parliament-should-decide-on-same-sex-marriage>

On March 13, 2016, The Sydney Morning Herald published a report by Mark Kenny titled 'Divisive marriage equality plebiscite to cost Australia more than \$500 million'

The article details the findings of the accounting firm Price Waterhouse Coopers on the supposed hidden costs of the same-sex marriage plebiscite.

The full text can be accessed at <http://www.smh.com.au/federal-politics/political-news/divisive-marriage-equality-plebiscite-to-cost-australia-more-than-500-million-20160312-gnhgtp.html>

On January 28, 2016, The Conversation published a comment by Adam Webster, Lecturer, Adelaide Law School, the University of Adelaide. The comment is titled 'Coalition tensions expose the flaws of the same-sex marriage plebiscite'

The opinion piece explores the effect on the proposed plebiscite of divisions within the Government.

The full text can be accessed at <https://theconversation.com/coalition-tensions-expose-the-flaws-of-the-same-sex-marriage-plebiscite-53749>

On January 27, 2016, The Guardian published an analysis by Lenore Taylor titled 'Eric Abetz: Coalition MPs will not be bound by plebiscite on marriage equality'

The article considers the position of Senator Abetz and others with strong views on changing the Marriage Act and the extent to which they are likely to be bound by the results of a plebiscite.

The full text can be accessed at <https://www.theguardian.com/australia-news/2016/jan/27/eric-abetz-coalition-mps-will-not-be-bound-by-plebiscite-on-marriage-equality>

In 2016 the lobby group Australian Marriage Equality Org. published the findings of a 2011 Galaxy poll they had commissioned which found that more than 50 percent of the Christians surveyed supported same-sex marriage.

An overview and a link to the full poll can be accessed at <http://www.australianmarriageequality.org/a-majority-of-christians-support-marriage-equality/>

On August 21, 2015, the ABC's current affairs program, The Drum, published a comment by Mike Steketee titled 'Same-sex marriage: At some point governments have to govern'

The opinion piece argues that it is part of the responsibility of governments to make decisions on behalf of the governed.

The full text can be accessed at <http://www.abc.net.au/news/2015-08-21/steketee-governments-have-to-govern/6715386>

On August 17, 2015, Crikey published a comment by Guy Rundle titled 'Rundle: bring on the gay-marriage plebiscite -- but do it now'

The piece argues in favour of an immediate plebiscite.

The full text can be accessed at <https://www.crikey.com.au/2015/08/17/rundle-bring-on-the-gay-marriage-plebiscite-but-do-it-now/>

Arguments against holding a gay marriage plebiscite

1. Parliament is able to amend the Marriage Act without a plebiscite and should act as a responsible law-making body on this issue

Opponents of the plebiscite note that there is no obligation on the federal Parliament to put same-sex marriage to a vote of the people before legislating on the question.

Under Section 128 of the Australian Constitution the only laws that require a referendum are those which involve altering the Constitution itself. Any such proposal requires a referendum and has to be accepted by an overall majority and a majority of states. As Professor Carolyn Evans, Dean, Melbourne Law School, University of Melbourne, has explained, 'Therefore, if parliamentarians wanted to introduce a Republic, or change the balance of federal power, or abolish the Senate, or limit the powers of the courts, they would first need to seek the permission of the Australian people in a referendum.'

However, altering the Marriage Act to allow for same-sex marriage does not involve making changes to the Constitution. Such an amendment to existing law could be passed in federal Parliament simply by achieving the support of a majority in the House of Representatives and a majority in the Senate.

In fact, the Constitution seems specifically to empower the federal Parliament to make laws with regard to marriage. Section 51(xxi) says the Commonwealth Parliament shall have powers to make laws with respect to 'marriage'.

There are those who have argued that the reference to marriage is specifically to marriage as it would have been understood at the time the Constitution was drafted and that the federal Parliament does not, therefore, have the power to extend this definition to include same-sex marriage.

In 2013 the High Court clarified the powers of the federal Parliament in a way which gave the Parliament exclusive authority to legislate with regard to same-sex marriage. The High Court ruled that with regard to the powers conferred on federal Parliament by the Australian Constitution, "'Marriage" in s 51(xxi) includes a marriage between persons of the same sex.'

Professor Carolyn Evans has therefore concluded. 'There is therefore no legal reason to require a vote of the people to clarify this situation. It is clear that the Commonwealth has the power to pass a law allowing for same-sex marriage.'

It has further been argued that calling for a plebiscite on this issue weakens rather than strengthens the democratic process. Parliamentarians, whether federal or state, are elected to make laws and take decisions on behalf of the people who elect them. If they act in a way that is contrary to the wishes of the electorate they are likely to be removed at the next election. They are therefore the people's representatives who are held democratically accountable for what they do every three or four years when an election is held.

It has been argued that if politicians had to get the opinion of the electorate before passing any potentially controversial law the business of government would become unworkable.

In an opinion piece published on the ABC's site, The Drum, on August 21, 2015, Mike Steketee stated, 'We live in a representative democracy - one in which we elect politicians to advance our interests but not necessarily our day-to-day opinions...'

Steketee suggests that although electorates often like the idea of being consulted their judgments are not always sound and the process of consultation can impede government. He argues, 'Voters like the idea of having a direct say on more issues...[However] at some point governments have to govern.'

Professor Carolyn Evans has similarly concluded regarding the same-sex marriage issue, 'Parliamentarians should have the courage of their convictions...and bring the matter to a vote of the parliament rather than trying to delegate their responsibilities to a society where a strong majority have already expressed their support for a change in the law.'

Despite widespread public support for same-sex marriage, it has been suggested that it is particularly problematic to have a national majority vote attempt to determine the rights of a minority group. In an opinion piece published in The Conversation of June 27, 2016, Brian Tobin, Lecturer below the Bar, NUI Galway, stated, 'Placing the rights of a minority group in the hands of the majority seems almost ludicrous. A sizeable number of the electorate could simply vote against same-sex marriage without being properly informed in the way elected politicians would usually be when legislating.'

2. Parliamentarians will not have to vote as the result of the plebiscite directs

Critics of the same-sex marriage plebiscite argue that it was originally proposed by Tony Abbott (the former leader of the Coalition government) as a stalling device, because he and the hard right of his party are opposed to a social reform that has gained increasing popular support. Calling a plebiscite allowed him to hold off declaring an unpopular position on the question and to appear to be taking action.

Critics argue that the plebiscite is just a stratagem intended to delay a vote in Parliament and that it indicates no genuine respect for the wishes of the electorate as even if a majority of people vote in favour of gay marriage, no Member of Parliament will be compelled to vote as the plebiscite suggests.

Doubts about the binding nature of any plebiscite on Australia's federal Parliament were confirmed when on June 24, 2016, the Prime Minister, Malcolm Turnbull, indicated that his party members would be allowed a conscience vote. Mr Turnbull stated, 'The tradition in the Liberal Party is that on matters of this kind it is a free vote.'

In a letter to the editor published in The Sydney Morning Herald on August 31, 2016, Anthony van den Broek stated, 'Meanwhile the hard right of the Liberal Party are laughing for they have achieved their ends. They have successfully delayed a vote on same-sex marriage, wedged Turnbull, will still vote against same-sex marriage no matter what the outcome of the vote, and have managed to split the pro camp.'

Prominent conservative spokesperson within the Liberal Party, Senator Eric Abetz, has indicated that whatever the result

of the gay-marriage plebiscite, for him the question would remain one that he would have to determine in accord with his conscience.

Senator Abetz has stated, 'Everyone knows my view is very strongly that a marriage between a man and a woman is the foundational institution for socialising the next generation. And every member of parliament will make up his or her mind after the plebiscite is held. People will take into account the views of the electorate, the views of the nation and their own personal views...

There will be people in the parliament who could not support the outcome of a plebiscite whichever way it went.'

Conservative Liberal Senator Cory Bernardi has similarly stated, 'There's no way I'm ever going to cast a vote in favour of changing marriage. I don't know that I would be expected to do so...

There are people who are always going to be supportive of changing marriage and people who are always going to be opposed to it and you can't expect people to cast a vote in favour of something that is against everything they believe in simply because a majority of Australians say that should be the case.'

Critics of the plebiscite argue that to hold it and then not require Party members to abide by the results of the plebiscite makes the whole exercise nonsensical.

Greens Senator Robert Simms has stated, 'It's ironic that Eric Abetz doesn't want a conscience vote on the issue of marriage equality but when it comes to implementing the outcome of any plebiscite that's a different story.

He wants some sort of veto power if he doesn't like the outcome. This just demonstrates what a complete nonsense this plebiscite is.'

Senator Simms further stated, 'I think most Australians would be scratching their heads this morning. How exactly can the Prime Minister justify spending \$160 million on what is in effect a giant opinion poll that isn't even binding on his own members.'

3. A plebiscite on gay marriage is likely to be divisive and to further marginalise lesbians and homosexuals

Concern has been expressed that as part of the debate preceding the plebiscite on same-sex marriage the opposing arguments are likely to be framed in ways offensive to homosexual couples, their friends and families.

In a letter to the editor published in *The Age* on August 24, 2016, Kathryn Barnsley wrote, 'I am concerned about the effect that the...plebiscite will have on my family, our children and grandchildren, and all our friends who are LGBTI. We will have to listen to, watch and read homophobia on our televisions, newspapers and social media as they spray insults at our loved ones and all of us.'

Critics of a same-sex marriage plebiscite have used Ireland's plebiscite on this issue as an example of the harm that can be done.

In an opinion piece published in *The Conversation* of June 27, 2016, Brian Tobin, Lecturer below the Bar, NUI Galway, noted the extent to which the 'no' campaign in Ireland focused on the supposed unfitness of same-sex parents to rear children and how offensive this was to gay couples and to those children already in their care.

Tobin stated, 'Ireland's referendum was crude and uncertain. Homophobia masqueraded as concern for children's welfare and anti-gay views were widely shared for many months before the referendum.

One can only imagine the effect the misinformation and scaremongering had on gay citizens, let alone the profound sense of rejection they would have felt if the majority had voted against the proposal.'

Tobin is critical of the degrading position in which the plebiscite placed Irish homosexual and lesbian citizens. Tobin stated, 'The...Irish "yes" campaign literally had its members knocking on doors throughout the country. Gay and lesbian people were reduced to "begging" for Irish society's approval of their most intimate relationships.'

Critics of the plebiscite have been particularly concerned about the impact that the 'no' campaign is likely to have on the young within the gay community.

David McCarthy, the lead host on Saturday Magazine JOY 94.9 and former co-convenor of the Victorian Gay and Lesbian Rights Lobby, has stated, 'We can't ignore the impact that the "debate" will have on young LGBTI kids who already have to deal with institutionalised discrimination, violence, abuse and mental illness. We can't afford to let loose the dogs of hate onto our young people that will end up in some of them self-harming or taking their lives.'

4. A plebiscite on gay marriage will be expensive

Critics of the plebiscite argue that it will be very expensive to implement.

The cost of the plebiscite is expected to come from two sources. There will be the expenses incurred prior to the plebiscite in advertising each side of the issue and there will be the administrative costs involved in producing voting materials, staffing booths and counting votes.

Regarding the promotion of each side of the issue, funding will be provided to two committees to run a 'yes' and 'no' campaign. Each committee will be made up of ten members: five politicians (two government MPs, two opposition MPs and one crossbench MP) and five members of the public.

The committees will each be given \$7.5 million from the government to support their advertising campaigns in the four weeks leading up to the plebiscite. In addition, the committees will be able to accept donations, with contributions of up to \$1,500 being tax-deductible.

The funding for the 'yes' and 'no' campaigns will be a relatively small part of the overall expense of the plebiscite. The majority of the expense will come from administrative costs. The government estimates the total cost will be some \$170 million.

Others have suggested that this estimate is far too conservative and that the actual cost is likely to be much greater. One of the world's most respected business accountancy consulting firms, PricewaterhouseCoopers (PwC) Australia,

has undertaken modelling of the probable cost of the plebiscite, including in lost production, and have estimated it to be approximately \$525 million.

The chief executive officer of PwC Australia, Luke Sayers, has stated, 'The real costs to government, the economy and members of the community to hold a stand-alone plebiscite are more than three times higher than the numbers commonly quoted.'

Total economic costs have not been considered before and should be part of the debate on the best way to achieve a resolution to this issue.'

Mr Sayers has further described the plebiscite as 'a massive waste of time and money, that will remove focus on the economy, growth, and jobs, which is the real priority for Australia.'

Australian Marriage Equality national director, Rodney Croome, has stated, 'The more information we get about the plebiscite, the clearer it becomes that it's just an incredibly costly...opinion poll.'

5. Polls have already indicated public opinion on this issue

Opponents of a plebiscite on same-sex marriage argue that such a gauging of popular feeling is unnecessary as opinion polls have consistently indicated that a majority of Australians support same-sex couples being given access to the institution of marriage.

A Fairfax-Ipsos poll on the question conducted in July, 2016, (just prior to the federal election) found that 70 percent of the 1,377 voters surveyed favoured same-sex marriage. The poll found that support for the reform is broad-based, with a majority of Coalition voters (58 per cent), Labor voters (79 per cent) and Greens voters (97 per cent) backing the change.

The overall figure represents a rise from 69 per cent in August 2015, and 57 per cent in November 2010. Just 21 per cent of voters now oppose same-sex marriage, down from 25 per cent in August 2015 and 37 per cent in November 2010.

A Galaxy poll commissioned in August, 2011, found that even those whose religious beliefs might be anticipated to cause them to object to same-sex marriage actually favour the right to marry being extended to homosexuals and lesbians. The findings were 53 percent of Christians support same-sex marriage (with 41% opposed); 62 percent of members of other religions support same-sex marriage (with 30% opposed), while 67 percent of people with no religion support same-sex marriage (with 24% opposed).

It has further been noted that not only to successive opinion polls should clear popular support for legalising same-sex marriage; recent polls show that a majority of the electorate is no longer in support of a plebiscite.

The results of a Newspoll released on September 24, 2016, revealed that support for the plebiscite has fallen from 70 per cent earlier this year to 39 per cent, with 48 per cent of respondents saying they favour a vote by members of Parliament to resolve the issue.'

Arguments in favour of holding a gay marriage plebiscite

1. The last federal election gave the government a mandate for a plebiscite

One of the bases on which democracies operate is that parties put policies and proposed actions before the electorate at an election seeking popular support for them.

The party which achieves a majority then considers it has the sanction of voters to implement these policies and perform these actions. Having voter support for a policy is referred to as having a mandate. Some claim that this mandate should not only guide the actions of the elected government; it should also shape the behaviour of the opposition. Therefore, some political theorists and politicians claim that an opposition should not block policies which an elected government has presented to the people.

Supporters of the same-sex marriage plebiscite claim that Labor, the Greens and the independent members of Parliament have no right to block the same-sex marriage plebiscite Bill because a majority of the electorate appear to have voted for it.

This position has been put by the Prime Minister, Malcolm Turnbull. Mr Turnbull has stated, 'I think it would be very rash of any political party to deny the Australian people a say on this issue when it is clear a majority do want a say, and particularly when a government is returned on the very clear mandate to do it.'

Mr Turnbull reiterated this point when introducing the same-sex marriage plebiscite Bill to Parliament. Mr Turnbull explained, 'So what we have to recognise is that...[implementing a plebiscite on same-sex marriage] is a commitment we took to the election. It is a commitment we will honour and we are honouring now. It is a commitment that respects the will of the Australian people. It respects their intelligence, their civility, their capacity to make a decision and, above all, it respects the fact that each and every one of them can have a say.'

Mr Turnbull ended his remarks by making this point again. 'Australians expect this issue to be resolved in the manner they endorsed at the election. We took this to the election and we won the election. There was no doubt about our policy. There was no doubt about our platform. This was prominently debated every day of the election campaign. Every Australian who took any interest in the election knew that that was our policy. We have a mandate for it, and the opposition should respect it.'

The same point has been made by the federal Attorney General, Senator George Brandis. Senator Brandis has stated, 'The government took a position to an election and we said to the people in July "In the next parliament we plan to proceed with this issue and the way we propose to proceed with it is by a plebiscite." The public endorsed that position. What we are doing is seeking to deal with the issue in the way that the public gave us a mandate to do at the election.' This view has been supported by a number of those outside the federal Parliament. Paul Monagle, the National

President of the Australian Family Association, has stated, 'The Turnbull government has a mandate for a plebiscite on marriage. Those opposing the plebiscite are engaging in hypocrisy.'

Even some who oppose the plebiscite in itself believe it should proceed because the Government has a mandate to implement it. Former Queensland Premier, Peter Beattie, has stated, 'The reality is that there was a mandate and the mandate comes from the lower house. The government got re-elected, it may have only been narrowly but they have a mandate for a plebiscite. I think it's a pretty stupid idea, it's a waste of money but that is the way the system operates.'

2. The cost of the plebiscite is not excessive

Supporters of the plebiscite argue that gauging the popular will on an important question is worth a significant expenditure.

Coalition Senator Eric Abetz has stated, 'Look you can ask the question what price of democracy and changing the fundamental institution which has socialised children for the past millennia...[It] can't be reduced to bean counting.'

Supporters have also suggested that some of the larger claims made about the probable cost of a plebiscite are exaggerated.

Michael Cook, in an opinion piece published in Catholic Weekly on August 31, 2016, stated, 'It wasn't long ago that the LGBT lobby was quoting a study by the leading accounting firm PwC Australia [Price Waterhouse Coopers], which claimed that "a standalone plebiscite" would cost \$525 million. Even for supporters this must have seemed ridiculous, so they have trimmed it back to the \$160 million estimated by the Australian Electoral Commission.'

Senator Abetz has also challenged the \$525 million estimate, describing the figure as 'quite bizarre'.

In an opinion piece published in The Daily Telegraph on March 16, 2016, Miranda Divine similarly argued that the Price Waterhouse Coopers' estimate of the cost of the plebiscite was highly exaggerated. Ms Divine stated, 'The PwC report on the economic cost of the government's promised same-sex marriage plebiscite is a transparently dishonest attempt to subvert the democratic process.'

The creative accounting involved in its claim that the plebiscite would cost half a billion dollars included every conceivable impost, no matter how absurd, in order to cast the most negative light on the plebiscite.'

Michael Cook has also stressed the value of what will be gained through the plebiscite. Mr Cook has stated, 'Two years ago, it was estimated that divorce and family breakdown cost Australian taxpayers \$14 billion a year in welfare payments and court costs. The cost of the plebiscite is about 1 percent of this. If the plebiscite helps to stop the erosion of traditional marriage, it will be money well spent.'

Other supporters of the plebiscite have argued that the money will be well spent if the plebiscite succeeds in resolving a controversial issue. Liberal member for the Queensland seat of Brisbane, Trevor Evans, who is a supporter of same-sex marriage, has stated, 'A plebiscite on same-sex marriage will be totally worth it if it manages to put the issue to bed once and for all.'

3. The debate around gay marriage will be civilised and respectful, not divisive

Many who support a plebiscite on same-sex marriage believe that the debate preceding the plebiscite will be civilly conducted and will not give offence to Australia's homosexual and lesbian community.

The Australian Prime Minister, Malcolm Turnbull, has rejected claims that it is not possible to have a debate around same-sex marriage without those who oppose the proposal being offensive. When introducing the same-sex marriage plebiscite Bill into Parliament, Mr Turnbull stated, 'the argument against the plebiscite that we hear today is that Australians cannot be trusted to have a civil conversation, that the Australian public are so immature, so unbridled, so reckless that they cannot be trusted to have a debate and make a decision on this issue. That insults the Australian people. It disrespects the Australian people.'

David Littleproud, a Coalition MP for the Queensland seat of Maranoa, has stated, 'I've lived in Australia all my life, and I'm very confident in the Australian people, confident that we're able to have a mature conversation and debate in an open and transparent way.'

Federal treasurer, Scott Morrison, has similarly stated, 'I have a bigger view of the Australian people ... we can deal with this issue as a country once and for all and move on.'

Michael Cook, in an opinion piece published in Catholic Weekly on August 31, 2016, stated, 'Most Australians support a robust but respectful debate. Immigration is a far, far more inflammatory issue than same-sex marriage, yet discussion in this country has been peaceful. It's a vicious smear on ordinary Australians to assert that they are incapable of having a rational debate.'

United States Ambassador to Australia, John Berry, has also claimed that he believes Australian society is fair and rational enough to conduct a civilised debate prior to a plebiscite on gay marriage.

Ambassador Berry has stated, 'I think Australia is one of the most rational countries in the world, you handle debate and discussion better than anybody quite frankly.'

In America, we tend to throw emotion in a lot, and that tends to sort of turn the temperature up on things.

You all, I think, when you start to get into that emotional level, are pretty quick to throw a wet blanket on that and get back to the facts...

Clearly it's a tough issue, and one that Australians have to decide for themselves. I certainly believe, however, Australia decides to move forward on this issue, it will be done with great respect.'

Ambassador Berry, who is openly gay, and who has been accompanied by his husband, Curtis Yee, during his posting in Canberra, has been impressed by the courtesy and respect with which he and his partner have been unflinchingly treated.

Ambassador Berry stated, 'We have certainly been given our fair go by everyone we've met in Australia.'

Even some of those who believe that the debate will not always be fair and rational, argue that it should be embraced as an opportunity to expose prejudice against gays and lesbians. Tim Wilson, a former Australian Human Rights Commissioner and now the federal Liberal Member for Goldstein, has stated, 'A plebiscite is a time for parents, friends, colleagues and allies to stand up and be counted. The experience in Ireland shows they do. It won't amplify loneliness and isolation, it will respond to it. Those who self-identify with division will invite public ridicule. Offensive arguments will be seen for what they are.'

4. The electorate is entitled to give its view on major cultural issues

Supporters of a plebiscite on same-sex marriage argue that marriage is such a significant social and cultural institution that Parliamentarians should directly seek the views of the people before altering it in any way.

This position was put by the Prime Minister, Malcolm Turnbull, when he introduced the same-sex marriage plebiscite Bill into Parliament. Mr Turnbull stated, 'We put our faith in the Australian people and we know that their answer, whether it is "yes" or "no", will be the right answer, because it is theirs. This is an institution, thousands of years old, that we are talking now about making a fundamental change to.'

In an opinion piece published in *Overland* on September 19, 2016, same-sex marriage advocate, Tad Tietze, argued in support of a plebiscite, in part because marriage is an institution with such wide-ranging social implications. Mr Tietze stated, 'The removal of the historic nexus between marriage as a male-female union is a...momentous change, which automatically affects how non-same-sex marriages are defined.'

Those who oppose same-sex marriage also seem to believe that the question is too culturally significant not to be referred directly to the people. Michael Cook, in an opinion piece published in *Catholic Weekly* on August 31, 2016, stated, 'This is too important an issue to be decided by conventional political channels... Marriage is a pre-political institution; it existed before the state and the state has no more power to redefine it than it does to redefine photosynthesis. Holding a plebiscite at least recognizes the solemnity of a decision taken by the nation to reconfigure foundational social bonds. If disastrous consequences ensue, at least we will know who was responsible.'

A similar position has been put by Guy Rundle, writing for *Crikey* in August, 2015. Guy Rundle stated, 'The issue of marriage is an "incommensurable" one - it doesn't map onto any simple left-right, or even liberal-conservative division. Cute phrases like "marriage equality" don't disguise the fact that redefining the essence of marriage is a major cultural event. Marriage predates the state and just about everything else in cultures.'

5. If there is no plebiscite, the move to legalise gay marriage is likely to stall

Supporters of the plebiscite argue that it is the most immediate means of legalising same-sex marriage. They claim that if the plebiscite is held and passed on February 11, 2017, a Bill for same-sex marriage will then be put before Parliament with the strong likelihood that it will pass both houses.

Supporters of the plebiscite further argue that without it there is no likelihood that a same-sex marriage Bill will go before Parliament in the term of the current government and thus legislation will probably be delayed until 2020.

Prior to the most recent federal election, which the Coalition won by a one seat in the lower house, former Prime Minister, Tony Abbott, warned that if, in the event of a Coalition election victory, the new Senate blocked moves to set up a plebiscite, it was then Coalition policy not to hold a parliamentary vote on same-sex marriage as an alternative.

Mr Abbott stated, 'If the Senate wants to play games with that, well, be it on their head, there won't be a same sex-marriage vote.'

Making the same point from a positive perspective, Malcolm Turnbull argued that if the Coalition won and a plebiscite on same sex-marriage were held he was confident it would be passed and that a same-sex marriage Bill would then be passed by Parliament.

Mr Turnbull stated, 'There are few things in politics that are certain, but one thing that I would say is an absolute certainty is that if the plebiscite is carried by the Australian people, same-sex marriage will be legislated for by the Australian Parliament.'

The consequences of not allowing a plebiscite have been stressed by the current Attorney-General, George Brandis, who has stated, 'If, like me, you favour reform to the Marriage Act to allow same-sex couples to marry then this is now the only feasible path to that outcome for many years to come.'

A similar warning has been given by Australians for Equality director, Tiernan Brady, who has suggested that blocking the plebiscite could see the legalisation of same-sex marriage delayed 'indefinitely'. Mr Brady has called on the major parties to arrive at an agreement so that the plebiscite can go ahead.

Mr Brady has warned that without a plebiscite 'there will be no clear pathway to marriage equality, even though the leaders of the three major parties are in favour of it, a majority of parliamentarians are in favour and the majority of Australians are in favour.'

Prominent Catholic academic, Father Frank Brennan, has urged the Labor Opposition not to block the plebiscite Bill's passage through Parliament. Father Brennan argues that a plebiscite is the surest way of securing the swift passage of same-sex marriage legislation.

Father Brennan has stated, 'The risk for the Labor Party in opposing a plebiscite will be that instead of the matter being resolved by February, it will drag on in the public mind for the next year or two and then we won't know until after the next election whether there is indeed to be a plebiscite.'

Father Brennan explained further, 'So the real question is: is it better to get this over and done with now, with certainty, by February; or is it better to put it on the long finger, in the hope of the Labor Party causing maximum embarrassment and political agitation for Malcolm Turnbull?'

Father Brennan, who supports same-sex, secular marriage believes the plebiscite to be the most immediate way of achieving this end.

Further implications

The decision to hold a plebiscite on same-sex marriage appears to have been largely a political expedient by former Prime Minister Tony Abbott, who is personally opposed to gay marriage, intended to delay having to respond to same-sex marriage bills then before the Parliament.

Postponing a vote on same-sex marriage meant that the divisions within the Coalition on the question could be side-stepped. A conscience vote was strongly opposed by those within the Coalition who reject same-sex marriage, while continuing to impose an anti vote on all members of the Party was at odds with popular opinion in the electorate and placed Liberals who support same-sex marriage in a difficult position.

When Malcolm Turnbull replaced Abbott as Prime Minister and leader of the party, he pledged support for the plebiscite that Abbott had proposed. This was despite Turnbull's prior support for a free Parliamentary vote on gay marriage. Turnbull had previously lost the leadership of the party to Abbott because his positions were seen as too radical. When he regained the leadership, Turnbull appeared concerned to keep the support of all party members. Continuing with the plebiscite appears to have been one means of holding his party together.

The July 2016 election saw the Coalition returned with a one-seat majority in the lower house, and no majority in the Senate. This problematic result is believed to have worsened Turnbull's position within his party. Despite their narrow winning margin, the Coalition has presented their electoral victory as a mandate for pursuing all the policies, including the plebiscite, which they took to the electorate. Political reality has since seen them have to negotiate and redraft former policies in order to get some of their legislation through both houses. Critics of the plebiscite maintain that it should similarly be scrapped and that a direct Parliamentary vote should be taken, with all parties allowing a free vote on the question. Such a position is a political impossibility for Turnbull.


The Labor Party now appears likely to oppose the same-sex marriage plebiscite Bill. Given that the Greens and Nick Xenophon's party have indicated they will not support it, this means that the Bill will not pass the Senate. Division within the Liberal Party may even mean that it does not pass the House of Representatives. The Labor position appears primarily intended to do political damage to the Coalition. The Labor Party was earlier in support of a plebiscite, their current anticipated opposition places additional immediate pressure on the Government. In the longer term, however, opposition to the plebiscite may be a political miscalculation on the part of the Labor Party.


If Labor supported the plebiscite and if, as currently seems very likely, the electorate voted in favour of same-sex marriage, the Government would then be compelled to put a same-sex marriage Bill before the Parliament. Turnbull has indicated that he will allow a free vote on the issue. If, as seems likely, a significant number of Liberal and National Party members voted against the Bill, this is likely to be damaging in the eyes of the electorate. If the Bill were to pass the Parliament, this would leave Turnbull with some seriously disaffected party members.

The deeply regrettable nature of this debate is the extent to which same-sex marriage has been used as a political plaything by each party. If the institution of marriage is as significant as many in the Parliament and elsewhere contend, and if, as seems likely, marriage equality is as important to the homosexual minority within our community as it appears, then this is an issue which deserves to have been treated with more respect by both sides of Parliament than has so far been the case.


A free vote should probably be allowed by both sides of Parliament, in the same way it has been on complex ethical issues such as euthanasia, and the question should have been seriously and conscientiously debated within the Parliament. There is clearly a place for plebiscites within our political process; however, in the current instance, the plebiscite appears to be being used by the Coalition to sidestep its responsibilities as a government and in the case of the Opposition, to inconvenience the Government. The issue and those it affects deserve better.

Newspaper items used in the compilation of this issue outline

The Age: September 4, 2016, page 28, comment (on plebiscite plans) by Sharon Dane, 'Show some respect'. 


The Australian: September 16, 2016, page 14, comment by Graham Richardson, 'Politicians must learn to respect the people's choice'. 


The Herald-Sun: September 15, 2016, page 13, comment by Andrew Bolt, 'Real peddlers of hate speech'. 


The Age: September 14, 2016, page 14, comment by Dean Smith, 'Why as a conservative I can't support the plebiscite'. 


The Age: September 13, 2016, page 15, comment by Andrew P Street, 'The problem with funding a "No" campaign'. 

The Age: September 24, 2016, page 30, comment by Michael Gordon, 'Oh, for a bright idea'. 

The Australian: September 22, 2016, page 13, editorial, 'Cynicism marries hypocrisy'. 

The Age: September 22, 2016, page 18, comment by Julie Szego, 'Wed to the hard right'. 

The Herald-Sun: September 20, 2016, page 20, comment by Justin Quill, 'Plebiscite win a chance to silence hate speech'. 

The Australian: September 20, 2016, page 12, comment by Andrew Hastie, 'Marriage is the people's institution, so they should decide its future'. 

The Herald-Sun: September 19, 2016, page 13, comment by Andrew Bolt, 'Vote reveals the haters of the Left'. 

The Australian: September 19, 2016, page 12, comment by Jennifer Oriell, 'Marriage debate reveals Left's divorce from reason'. 