

SAME-SEX MARRIAGE BILL 2013

Introduction and First Reading

Bill introduced, on motion by **Hon Lynn MacLaren**, and read a first time.

Second Reading

HON LYNN MacLAREN (South Metropolitan) [10.19 am]: I move —

That the bill be now read a second time.

It is my solemn and heartfelt privilege today to introduce a bill to remove discrimination in Western Australia for adult couples who love each other and want to get married. It is not often that one has an opportunity to make the world a better place; tabling this bill, which sets out the legislative framework for same-sex marriages, is one of those major milestones in the long journey for social justice and equality. In the week in which we farewell Nelson Mandela, one of history's best-loved social justice activists, this is a fitting tribute to his ideals. His legacy includes appointing an openly gay judge to South Africa's Supreme Court of Appeal. During his presidency, South Africa also became the first nation in the world to constitutionally prohibit sexual orientation-based discrimination. The first same-sex marriages in South Africa were performed in 2006. Nelson Mandela said —

We must use time wisely and forever realize that the time is always ripe to do right.

It is my fervent hope, and the hope of many others, that the members of this Parliament will think kindly on the policy objectives of this bill and will act with some urgency to make love equal.

During the past year we have witnessed an increasingly popular campaign for marriage equality in Australia. The Australian Capital Territory was the first jurisdiction to pass legislation in Australia. Ceremonies began there last weekend. We heard this morning that those marriages, some 20 of them, have been or will be annulled, following the High Court decision. At this point I want to express my congratulations to Hon Stephen Dawson, who travelled to Canberra to get married but who today finds his marriage annulled. That, my friends, is not an ideal outcome in this day and age. I feel strongly for him and how he must be suffering today. Similar bills have been introduced in Victoria, South Australia, New South Wales and Tasmania. This bill is a different bill; I have learned from the experiences in the other jurisdictions. The Same-Sex Marriage Bill 2013 has been amended according to what we have learned from those other experiences. From the sidelines, Western Australia and the Western Australian Parliament have watched the campaign grow in strength and the number of supporters build to now represent the majority of Australians. Australian marriage equality is marching toward an historic victory.

The state of Western Australia has a proud tradition of human rights law. The 2001 election of the Gallop government with the Greens holding the balance of power in the Legislative Council heralded major gains in removing discriminatory laws for gay, lesbian, bisexual, transsexual and intersex people and for their relationships and families. It was the law reforms passed in 2002 and 2003 that finally expunged the anti-gay preamble from WA's law books, and comprehensive equal opportunity laws were passed during that time covering sexuality. The legislative package also reformed dozens of different laws to allow same-sex couples to be treated exactly the same as de facto heterosexual couples in virtually every area of the law.

In 2011, I made a member's statement expressing my support for marriage equality and urging all Western Australians to call upon the Parliament of the Commonwealth of Australia to amend the commonwealth Marriage Act 1961 to provide for marriage equality. The federal move, though unsuccessful, attracted more support than ever before, with 48 members of the House of Representatives supporting a bill to amend the Marriage Act 1961. In fact, it was due to the lobbying by my constituents in the South Metropolitan Region that the member for Brand changed his vote and supported the bill. Just a few months ago the federal Parliament voted on a bill to recognise overseas same-sex marriages in Australia. This, too, was unsuccessful, but has attracted more attention to the issue at hand. Because the federal bills were unsuccessful, we now have an opportunity, and I would say a responsibility, to legislate at the state level for same-sex marriage. In recent times, several members of Parliament have spoken in favour of marriage equality in this chamber and in the other place. A cross-party committee in New South Wales concluded that states could indeed legislate for same-sex marriage.

The situation in which WA finds itself parallels that of states of the United States of America. Today, in the absence of federal marriage equality laws, sixteen states in the USA have passed laws to extend marriage rights to same-sex couples: California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Washington. Same-sex marriage is legal in sixteen countries: the Netherlands, Belgium, Spain, Canada, South Africa, Norway, Sweden, Portugal, Iceland, Argentina, Denmark, France, Brazil, New Zealand, Uruguay and Britain. Mexico City also performs same-sex marriages, which are recognised in all 31 Mexican states. Other places

where reform is imminent include Finland, Slovenia, Paraguay and Nepal. Many Western Australians have travelled abroad at great expense to tie the knot, because marriage laws here have excluded them.

One of my constituents wanted to share this statement in support of the bill. According to my notes, my constituent said —

We would also love the right to defend ourselves against homophobia by having our relationship recognised as equal to other married couples under the law. In our eyes and the eyes of our families, we are already married and our relationship is respected, but as long as it is unprotected by law, we will always be vulnerable to derision and discrimination.

Other advocates for marriage equality agree. Former Pride WA co-president Paul van Lieshout Hunt, who I note is with us today in the public gallery, provided this statement —

Pride WA firmly hold the stance that gay marriage will aid in ending discrimination against people of diverse sexuality and gender, furthermore acceptance of gay marriage and equal marriage rights will result in lower rates of mental health disorders and general health of the LGBTIQ community.

Where the Australian Parliament has faltered, we can succeed. Couples are asking for this change. Their mums and dads, brothers and sisters, daughters and sons, cousins, nephews, nieces, aunts, uncles, friends, work colleagues and teammates have all supported the campaign for marriage equality.

Opponents of marriage equality argue that allowing same-sex marriage will cause potential damage to children and to the sacred institution of marriage. However, neither of these claims is borne out by the evidence. American and Australian psychological associations agree that the children raised by same-sex couples are just as well adjusted as their peers. The American association has gone further, finding that if the children of same-sex couples experience any harm, it is due to the fact that their parents cannot marry. Meanwhile, despite all the doom-mongering to the contrary, studies in North America and Europe have found that allowing same-sex couples to marry actually strengthens the institution of marriage rather than redefining or weakening it.

There is a high level of awareness among ordinary Australians about the discrimination inherent in current Australian marriage law. Australia's federal political leaders are out of step with most Australians on this. They should listen to what the surveys say—most voters want marriage equality. In fact, each time the pollsters go out into the streets, they find that the numbers in support grow higher. Galaxy Research polling from 2009 to 2012 showed that 64 per cent of Australians supported marriage equality; a majority of Christians—53 per cent—supported marriage equality; 76 per cent of coalition voters wanted Abbott to allow a conscience vote—he is our current Premier —

The PRESIDENT: Order!

Hon LYNN MacLAREN: Sorry, Mr President; I meant the Prime Minister, Tony Abbott. At the time of the poll he was not the Prime Minister; I am sorry that his name did not reflect that.

The PRESIDENT: The other point is that if you refer to a member, particularly of the executive of another jurisdiction, you must use their correct title. It is Hon Tony Abbott.

Hon LYNN MacLAREN: Of course; the Prime Minister, Hon Tony Abbott. It is important to note that 76 per cent of coalition voters would like our Prime Minister to allow a conscience vote. Eighty-one per cent of young people aged 18 to 24 support marriage equality.

Civil unions fall short of the marriage equality reform that the majority of Australians want. It is high time Western Australia joined other civilised states and nations in rejecting prejudice and embracing marriage equality because it will make an important difference in the lives of many Western Australians. There are disproportionately high rates of depression, suicide and self-harm among people of diverse sexuality and gender. From countering homophobic bullying in schools to preventing discrimination in aged care, there is still much work to be done. The signal sent by removing discrimination in marriage will make a positive difference to the experiences of younger and older Australians and how others relate to them. I am willing to see this struggle through to its finish—until the day when every young person in Australia will grow up knowing true equality, freedom and dignity.

The Same-Sex Marriage Bill 2013 sets up a separate form of same-sex marriage at the state level that is conceptually distinct from marriage provided for by the federal Marriage Act 1961, and provides for same-sex marriages between adults; authorisation of celebrants to solemnise same-sex marriages; amendments to the Births, Deaths and Marriages Registration Act 1998 to provide for the registration of same-sex marriages; amendments to the Family Court Act 1997 to provide for the dissolution and annulment of same-sex marriages and for other related financial matters; consequential amendments to other acts; and related purposes. Although this bill is a large step towards marriage equality by providing for same-sex marriage in Western Australia, it falls short by not addressing inequality for transgender, transsexual and intersex people. The Parliament should

also act to end the discrimination against these vulnerable communities that suffer high rates of suicide and self-harm. It is this area of discrimination that a cross-party working group of state parliamentarians should contribute to significant reform. While this inequality still exists, organisations continue to support and advocate on behalf of lesbian, gay, bisexual, transgender, intersex and queer people, including the Human Rights Commission, the Equal Opportunity Commission, WA Gender Project, Equal Love WA, Gay and Lesbian Community Services of WA, the Freedom Centre, Parents and Friends of Lesbians and Gays, Pride WA and many others.

Someday soon—I have said this before—I hope we will look back on the whole same-sex marriage debate and wonder what all the fuss was about. We will wonder how such inequitable and prejudicial laws that could prevent someone from marrying the person they love could have been allowed to persist for so long. When considering this bill in the months to come, I ask members to remember the words of Nelson Mandela —

What counts in life is not the mere fact that we have lived. It is what difference we have made to the lives of others that will determine the significance of the life we lead.

I will repeat that last sentence for emphasis —

It is what difference we have made to the lives of others that will determine the significance of the life we lead.

Pursuant to standing order 126(1), I advise that the bill is not a uniform legislation bill.

I now table the explanatory memorandum.

[See paper 1150.]

Debate adjourned, pursuant to standing orders.