

GENDER REASSIGNMENT AMENDMENT BILL 2018

Second Reading

Resumed from 8 November.

DR A.D. BUTI (Armadale) [4.48 pm]: I rise to contribute to the debate on the Gender Reassignment Amendment Bill 2018. It is an appropriate day to be debating this bill, as it is the Transgender Day of Remembrance.

The ACTING SPEAKER: Members can move out of the chamber if they are going to have a conversation.

Dr A.D. BUTI: I was just mentioning that this is an appropriate day to discuss the Gender Reassignment Amendment Bill, as it is the Transgender Day of Remembrance, which has been held on 20 November since 1999 as a day to memorialise those who have been murdered as a result of transphobia. It is a day to draw attention to the continued violence endured by the transgender community.

Other members have mentioned that the Gender Reassignment Amendment Bill 2018 and a number of other reforms were introduced by the reformist Attorney General. This bill seeks to amend the Gender Reassignment Act 2000 to allow a person to be issued with a recognition certificate regardless of their marital status. The 2000 act governs the process by which a person can obtain official recognition of a change in gender, and this bill will streamline that cumbersome process. This bill results from the Marriage Amendment (Definition and Religious Freedoms) Act 2017 of the federal Parliament, and the consequential amendments to the Sex Discrimination Act—also a commonwealth act. We need to comply with that legislation, otherwise our act will be inconsistent with the commonwealth marriage amendment act and fall foul of section 109 of the Constitution.

This bill will remove the requirement for a person to be unmarried to obtain a recognition certificate that authorises the registrar, upon application, to alter the record of a person's sex on their birth certificate. That is obviously a very important reform that we must adhere to if we are not to be in violation of commonwealth legislation. During earlier second reading debate on this bill, opposition members decided that it would be a good idea to attack the member for Perth. I have been reading through the speeches made by some members of the other side. It is a shame that the member for Dawesville is not here, but the members for Darling Range and Carine are so I will draw attention to their contributions and also mention some of the stuff that the member for Dawesville talked about. In talking about the same-sex marriage plebiscite, the member for Darling Range said —

I am proud to say that the federal Liberal government took the issue to the public for a vote because we run under a Westminster system. It is a democratic system and, as I said, it is our role as members of Parliament to deliver on good governance. When there is an issue as important as this that affects many people across the country, we deserve the right to put it out to the public to cast a vote. The public voted and the legislation was rightly changed to reflect the result of the vote. We need to respect what the community has voted on and what it has asked for. In December 2017, the federal Liberal government changed the commonwealth Marriage Act, and as a result we as a state Parliament need to make sure that we change our legislation that sits under that act so we are compliant and consistent and we are doing the right thing to deliver good governance. It is on that that we stand and support the bill.

I have a couple of issues with that. Does the member for Darling Range believe she is a trustee or delegate representative in this Parliament?

The ACTING SPEAKER: Member, it is not appropriate to ask questions across the chamber.

Several members interjected.

Dr A.D. BUTI: I ask that question rhetorically. From what the member said, she believes that she must always adhere to what her electorate says on a matter.

Mrs A.K. Hayden: The result of a plebiscite vote.

Dr A.D. BUTI: That is what she is saying. In her contribution, the member for Darling Range said —

Mr J.N. Carey interjected.

Dr A.D. BUTI: In the member for Darling Range's contribution, she stated —

The ACTING SPEAKER: Member for Armadale, just take a seat. Member for Perth, I might allow the interjection from the member for Darling Range because a rhetorical question has been put, but you do not have to enter the debate. That is unruly. Thank you.

Mrs A.K. Hayden: As a result of the plebiscite vote. They were my words, and you read them out.

Dr A.D. BUTI: In her contribution, the member for Darling Range said that we have to adhere to what the electorate is saying. That is interesting. I will give the member for Darling Range a bit of a history lesson.

Edwin Bourke, whom I am sure the member for Darling Range would support because he was a conservative politician, did not believe that members come to Parliament as delegates and therefore did not have to adhere to everything that the constituents want, because otherwise we would surely be ruling by majority. We know that always ruling by majority can have dire consequences. We come here as trustees of our electorates. Of course we take on and consider their views.

Mr W.J. Johnston: Member, have you got that quote from Bourke?

Dr A.D. BUTI: Yes. One of his quotes is —

... his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living.

We come here as trustees of our electorates. We take on board its considerations, but form our own judgements. That is important.

Mrs A.K. Hayden: And I was condemned for that.

Dr A.D. BUTI: Speaking about the same-sex debate, the member for Darling Range said that she was enacting the wishes of the public; we knew that anyway. The federal member for Canning, whom of course the member for Darling Range works with closely because his electorate takes in much of Darling Range, did not vote according to the plebiscite result in his electorate. Andrew Hastie has some strong religious convictions. If he went to Parliament and voted according to his conscience, that would be fine if that is what he said all along. But what is worse is that before the plebiscite, he said that he would vote according to the views of his electorate, as did Tony Abbott. Tony Abbott opposes same-sex marriage but voted in favour of the bill because his electorate was strongly in favour, as were the voters of Canning. But the member for Canning did not vote in accordance with the wishes of his electorate. That completely contradicts what the member for Darling Range said should happen in this house.

Mrs A.K. Hayden: No! You are twisting my words!

Dr A.D. BUTI: The member for Darling Range went on —

Mrs A.K. Hayden: That's fine; I gave a great speech.

Dr A.D. BUTI: I am not seeking interjections.

The ACTING SPEAKER: All right. All calm down. Member for Armadale.

Dr A.D. BUTI: Further on in her contribution, she stated —

Sadly, I feel that despite living in a First World country with these rights—being born here, having grown up here and having the privilege to enjoy our way of life—our freedom of speech is being diluted. It is often used as a justification for people to say awful things about specific groups, people and individuals simply because they do not share the same opinion.

During the same-sex debate, some pretty awful things were said about people in same-sex relationships. It is interesting that the member for Darling Range —

Mrs A.K. Hayden interjected.

Dr A.D. BUTI: Acting Speaker, I am not asking for interjections.

The ACTING SPEAKER: Member for Armadale, you have the floor but you are speaking about the member for Darling Range.

Dr A.D. BUTI: But I am not asking for interjections.

The ACTING SPEAKER: You have the floor.

Dr A.D. BUTI: It is interesting that the member for Darling Range talked about freedom of speech being diluted. As reported by Nick Butterly in *The West Australian* of Saturday, 10 November, the Western Australian Liberals put a five-year ban on party criticism. The article reads —

The WA Liberal Party is asking children to sign extraordinary “talent release” forms that seek to ban people from criticising or satirising the party in public, or in private, for five years.

Five years! Talk about curbing freedom of speech!

Mr J.N. Carey: That is the party of freedom of speech!

Dr A.D. BUTI: The article continues —

The forms, which it is understood were handed out by a Federal Liberal MP's staff to several children before a recent community event, also effectively seek to ban signatories from associating with other political parties.

Forms obtained by *The Weekend West* warn the "talent" that on signing the papers they agree they shall not for five years "in public or in private, —

In private! The article continues —

disparage the Liberal Party of Australia, satirise the talent's association with the Liberal Party" or otherwise make "any statement which might reasonably be expected to adversely affect the image" of the Liberals.

Mr J.R. Quigley: Does that cover Malcolm Turnbull?

Dr A.D. BUTI: No—children!

The article continues —

The forms demand that on signing, the person agree never to allow their image to be used by another major political party—complicating any association with an MP who is not a Liberal.

"The talent agrees ... that the talent shall not from five years from the date of this agreement appear or feature in any other advertising or promotional material ...

Talk about curbing freedom of speech, member for Darling Range. The member's own party is seeking to muzzle children from speaking not only publicly but also privately. How disgraceful is that! The member should not go on about freedom of speech. Further on in the member for Darling Range's speech she stated —

Equality and the right to speak are not owned by one specific group. Equality goes back hundreds of years and it did not start in this modern day.

Exactly, but the fact is that minorities have to speak out to ensure equality. Equality does not happen without speaking out. The member for Darling Range then went on to say —

It started with racism, it started with women and it started with groups who have worked and fought extremely hard to be treated equally.

She is 100 per cent right. The gay community has also fought for its equality. That is what happened. Equality is all about ensuring that all groups have equality. Sometimes groups are discriminated against, and they need to speak out to obtain equality. When she goes on about racism, it is quite interesting. I will leave that until I get to the member for Dawesville's contribution to the debate.

[Member's time extended.]

Dr A.D. BUTI: The member for Dawesville talked about the great reputation of the Liberal Party in recognising individuals in our community who have been marginalised or under-represented. He went on about William McMahon. The member for Dawesville was not even born then. He even went on about Paul Keating's inaugural speech. I do not think the member for Dawesville was born when the former Prime Minister made his inaugural speech in about 1969.

Interestingly, the member for Dawesville talked about all the great things the Liberal Party has done but he forgot to mention the Western Australian Liberal government under Richard Court, which opposed the federal native title legislation. We had that shameful period when the WA Liberal Party was in cahoots at that stage with the mining industry and the Pastoralists and Graziers Association of WA in those revolting, disgusting ads played on TV that sought to divide our state. They were absolutely disgraceful. As we all know, the Richard Court government introduced legislation to try to water down native title in Western Australia. Remember that the Mabo decision was won by six to one in the High Court. When the WA government introduced its legislation seeking to water down native title as recognised under Mabo and then enshrined in the Labor Native Title Act under the Prime Ministership of Paul Keating, that went to the High Court and the High Court decided seven to zero against the WA legislation for being in violation of the federal Native Title Act and for being racially discriminatory. For some reason, the member for Dawesville forgot to mention that. He wanted to bring up Paul Keating's inaugural speech in 1969, in which he said that wives should not be forced into the workforce et cetera, and with which I definitely do not agree. But that was 1969 and I do not agree with it, but we are talking about more modern times when the Liberal Party of WA opposed native title.

The member for Darling Range spoke about same-sex marriage and the member for Dawesville talked about the plebiscite. Let us get this right. Why was there a plebiscite? A plebiscite was held to try to resolve internal pressure within the Liberal Party.

Mr T.J. Healy: To save Malcolm Turnbull.

Dr A.D. BUTI: It was basically to save Malcolm Turnbull. If we remember, the conservatives who brought down Malcolm Turnbull's leadership were also the forces who did everything possible to ensure that same-sex marriage was not legislated for. It was an absurd situation. We all knew from numerous public surveys that the majority of Australians were in favour of legislation to legalise same-sex marriage. We all knew that. We also knew that if there had been a conscience vote in the federal Parliament, the majority of federal members would have agreed to legalise same-sex marriage. Numerous public opinion polls showed that the majority of people were in favour of same-sex marriage. The majority of federal Parliament members also were in favour of same-sex marriage. Why did the government not just introduce an amendment to the Marriage Act to ensure that same-sex marriage was legalised? It did not do that due to the internal politics within the Liberal Party, so we had to go through this plebiscite process that cost thousands and thousands of dollars. Although some of the debate and discussions were reasonable and respectful, the plebiscite gave licence to homophobes to engage in hate language. In the end, we got to the point that we all knew we would get to anyway. It was an absurd situation. But federal members such as the member for Canning said before the plebiscite was held, "Although I am opposed to same-sex marriage, I will vote according to my electorate." His electorate was overwhelmingly in favour of same-sex marriage but he still voted against it.

Then we move to the member for Carine, and I think it was the member for Hillarys who mentioned this. It came back to the surrogacy bill that we debated previously, which was brought up by the member for Perth. I raise that because in the member for Carine's contribution to debate on the Gender Reassignment Amendment Bill, he said —

I want to quickly reflect on one point that was made by the member for Perth in his speech. He attacked a number of members on this side, in particular the member for Hillarys and me, and also the member for Darling Range. He quoted from my contribution to the debate on the surrogacy bill. I also want to quote from my contribution, because it is good to look at the entire statement so that we can put things in context, rather than selectively pick a quote and try to interpret what that means, which is what members in this place do all the time. I said —

The member for Armadale has helped me refine my point—that the Surrogacy Act 2008 should have provided for criminal checks. I am not saying that it should be any different now all of a sudden because we have single men or same-sex married men; that is not the reason that I think we need to have criminal checks. I think it needs to be right from the beginning.

Until I interjected, the member for Carine had not mentioned what should have happened with the legislation in 2008—not at all. When his government introduced that bill in 2008, it never mentioned the issue. It was mentioned here by the member for Carine and, I think, the member for Hillarys.

Mr A. Krsticevic: It was mentioned by the member for Hillarys and you mentioned something about it and I followed up on that. I picked up on it after you guys.

Mr P.A. Katsambanis interjected.

Dr A.D. BUTI: No; I am talking about the Surrogacy Bill debate.

Mr A. Krsticevic: I picked up on it from you guys.

Dr A.D. BUTI: I do not think I contributed to that.

Mr A. Krsticevic interjected.

Dr A.D. BUTI: The point is when the Surrogacy Bill was debated in 2008, the member for Carine —

The ACTING SPEAKER (Mr S.J. Price): Member for Carine! The member for Armadale has the call. He is not asking for your interjections.

Mr A. Krsticevic interjected.

The ACTING SPEAKER: Member for Carine, I call you to order for the second time.

Dr A.D. BUTI: When the Surrogacy Bill was debated in 2008, the issue of criminal checks was not brought up by the government of the day. In debate on the Human Reproductive Technology and Surrogacy Legislation Amendment Bill introduced this year by the Attorney General, the member for Carine did not raise the issue of criminal checks outside the fact that the bill would make it possible for same-sex couples to engage in the surrogacy process.

Now, it is important to bring up this point. Yes, when I interjected, the member for Carine then clarified his position on the basis of my interjection and, as I said, he said —

The member for Armadale has helped me refine my point.

Okay. Let us accept that that is the member's point now.

Mr A. Krsticevic: That was always my point.

Dr A.D. BUTI: It was not at the time he raised it. This is the point. It was brought up by the member for Perth — Several members interjected.

The ACTING SPEAKER: Member for Carine! Member for Darling Range!

Dr A.D. BUTI: There are still too many people who seek to equate paedophilia with homosexuality. Why raise the issue of paedophilia? Paedophilia was not mentioned by this side. It was mentioned by the other side. Why was paedophilia raised?

Several members interjected.

Mr A. Krsticevic: No-one mentioned it.

Dr A.D. BUTI: You want a bet?

The ACTING SPEAKER: Member for Armadale, member for Carine, member for Darling Range, the member for Armadale is not taking interjections.

Mr A. Krsticevic: Sorry, I —

The ACTING SPEAKER: Member for Carine, I call you to order for the third time. I am speaking.

Dr A.D. BUTI: Too often homosexuality and paedophilia are still equated. Two of the most despicable paedophilia crimes in WA in the past couple of years have nothing to do with same-sex relationships. One is the Evil 8 and the father with the daughter. In that case, all the offenders were males having sex with an underage female.

Mr A. Krsticevic: I agree with you.

Dr A.D. BUTI: The other one was the spouse-swapping parties and the daughter was also put up for sex. I am saying this generally and that is why we have to be very careful in our language. We cannot continue associating paedophilia with homosexuality. They are completely different issues. As I just outlined to members, the two most horrendous paedophilia crimes in WA in the past few years have been heterosexual acts and not same-sex acts. It is incredibly important that one does not seek to raise paedophilia in any debate when we are dealing with same-sex issues.

Mr P.A. Katsambanis: You raised it.

Mr J.N. Carey: He raised it. The member for Carine raised it.

Mr P.A. Katsambanis interjected.

Several members interjected.

Dr A.D. BUTI: Exactly right. It is in *Hansard*. Yes, you did, member for Hillarys.

The ACTING SPEAKER: Member for Armadale! Member for Perth!

Mrs A.K. Hayden interjected.

Dr A.D. BUTI: Member for Darling Range, yes, your colleague did raise it.

Mrs A.K. Hayden: Not all single men are homosexual.

Dr A.D. BUTI: We know that.

Mrs A.K. Hayden: It was under the single male being able to do surrogacy.

Dr A.D. BUTI: You raised it only in the context of a same-sex situation. You never raised it in the context of a heterosexual situation.

Mrs A.K. Hayden: I did not.

Dr A.D. BUTI: We are not saying that. Did I attribute that to the member for Darling Range?

Mrs A.K. Hayden: You were then, yes.

Dr A.D. BUTI: No, I was responding to the member for Darling Range's interjection. The contribution by the opposition on this bill before the house, taken in conjunction with its contribution to the Human Reproductive Technology and Surrogacy Legislation Amendment Bill, leads one to think that it has not moved on. Society has moved on.

Mr T.J. Healy: Member, it is historical. Jim Clarko, a former member of this house, who was the former member for Hillarys and Carine and whom the member for Carine thanked in his maiden speech, spoke disgustingly during the decriminalisation debate. Nothing has changed.

The ACTING SPEAKER: Thank you, member. Member for Armadale, carry on.

Dr A.D. BUTI: The member for Darling Range referred to freedom of speech in her contribution. As we know, the Liberal Party is trying to muzzle the freedom of speech of young children, and the issue of one having to be — Several members interjected.

Dr A.D. BUTI: The member for Hillarys was not here. I refer to the form that the Liberal Party is seeking to have young children sign to say that they will not criticise the Liberal Party for five years.

Mr P.A. Katsambanis: I am not. I am not doing anything. It is not my form.

Dr A.D. BUTI: Does the member know the form here? Does the member for Hillarys not think that that restricts freedom of speech?

Mr P.A. Katsambanis: It is not my form.

Mrs A.K. Hayden: I do not have that form. It is not my form.

Dr A.D. BUTI: It is the Liberal Party. “It’s not my fault. I’m just a member of the Liberal Party.” Members have to own it. Why did members not denounce it? Does the member for Hillarys denounce the form that seeks to restrict children —

Mr P.A. Katsambanis: Do you denounce section 18C, which restricts freedom of speech?

Dr A.D. BUTI: No, I am asking about children. You will not answer it, will you?

Mr P.A. Katsambanis: Do you denounce section 18C? Go on, big man.

Dr A.D. BUTI: You will not answer it, will you?

The ACTING SPEAKER: Members! Member for Armadale. Listen! There are only a couple of days to go. Let us rein it back in. Member for Armadale, through the Chair, please.

Several members interjected.

The ACTING SPEAKER: Member for Hillarys! Member for Armadale, through the Chair. If you do not want the interjections, do not provoke responses from the opposition.

Dr A.D. BUTI: I will tell members what I do not approve of—hate speech. Section 18C takes along that, too, mate. Section 18C looks at hate speech. I do not agree that —

Mr P.A. Katsambanis: It does a lot more than that.

Dr A.D. BUTI: It is interesting, is it not, that he is not comfortable enough to criticise a Liberal Party form that seeks to restrict for five years children from speaking about the Liberal Party in not only public but also private. If any members opposite were champions of freedom of speech, they would denounce this bill. It is interesting. The Liberal Party always likes to talk about freedom of speech when it suits the contents that it wants to regurgitate.

The issue of religion was also raised. The member for Darling River brought up the issue of religion and the member for Southern River mentioned the connection between certain churches and the Liberal Party. There is nothing wrong with being religious. I was raised a Catholic. I was at a funeral today in a Catholic Church. I do not criticise religion, but I criticise when certain religious views seek to prohibit other people from engaging in civil life and try to restrict their freedom. I refer to this article of 2013 by Gary Adshead about a church in the northern suburbs. We all know, do we not, how the churches are linked in with some of the Liberal Party members in the northern suburbs? We all know about that.

Mrs A.K. Hayden: What about unions and the Labor Party?

Dr A.D. BUTI: I will give the member for Darling Range an example in a minute. The member has reminded me of something. This article reads —

A northern suburbs church, which embraces supernatural healing and speaking in tongues, has become closely aligned to the Liberal Party with two church members—Environment Minister Albert Jacob and Joondalup MP Jan Norberger—already elected to Parliament.

As we know, there is a close link between Mr Goodenough, the federal member for Moore, and certain churches. We also know that down in the south, a member for the upper house Hon Nick Goiran has links to religion. I was speaking on the phone not so long ago to a certain ex-Liberal ex-politician from down that way—I will not mention his name—and he said he had got a phone call to go to a new Liberal Party branch being set up. He went along and it was being held at someone’s house. He had a discussion with all these nice old ladies and then he asked when the next meeting would be. They said that they did not know; the church had told them to go there. They asked whether it was all about church business. That was the formation of a new Liberal branch in the southern suburbs. We all know the linkage between certain hardline right-wing churches and the Liberal Party.

The member for Hillarys might be screwing up his nose and being uncomfortable. I would be if I was a Liberal member for Hillarys, because he knows the links between the churches and the Liberal Party and the northern suburbs. There is nothing wrong with being religious.

Several members interjected.

Dr A.D. BUTI: However, when a religion tries to dictate what people can say and vote on, there is a problem. Also, the member for Hillarys, coming from Victoria, very well knows that the religious right has overtaken the Liberal Party in Victoria and is —

Mr P.A. Katsambanis: I have no idea. I haven't lived there for nearly a decade.

Dr A.D. BUTI: It is a few years since he has been there; I would be surprised if he has not kept in contact. I have a very good friend —

Mr P.A. Katsambanis: Let's talk about the religious right and the Labor Party!

The ACTING SPEAKER: Members! Member for Armadale, again, through the chair, please. Do not provoke interjections from the other side. Member for Armadale, if you can start to wrap it up and bring it back to the bill, it would be very much appreciated.

Dr A.D. BUTI: I am; I am talking about the debate amongst the other members.

The Liberal Party in Victoria has in certain areas been taken over by hard-right religious groups to such an extent that some branches have changed their meetings to Saturdays so people can go to various church services on Sundays. The fact is that members opposite can pray as much as they want, but it is not going to save the Liberal Party unless they appeal to a broad spectrum. If they want to go down the Republican route of thinking they can win a state election in WA by appealing to a narrow group of people —

Mr I.C. Blayney: Do you really think we're going to listen to lectures from you about our party?

Dr A.D. BUTI: You do not lecture us about unions and our involvement with unions? The hypocrisy is phenomenal!

Several members interjected.

The ACTING SPEAKER: Member for Armadale, member for Geraldton, thank you.

Mr A. Krsticevic: Why are you a backbencher? Tell me.

Mr P.A. Katsambanis: Because he's not in a faction.

The ACTING SPEAKER: Member for Carine!

Dr A.D. BUTI: I am, actually.

Several members interjected.

The ACTING SPEAKER: Members!

Mr T.J. Healy: Who won the Hillarys preselection?

The ACTING SPEAKER: Member for Southern River!

Dr A.D. BUTI: The Hillarys preselection? Who won the Hillarys preselection? He is here now. We also remember his two o'clock phone call to the former member for Hillarys. He had just been elected as a member of Parliament. Very, very gracious—he had just been elected at 12 o'clock that night, he was the new member for Hillarys, and he made a two or three o'clock phone call to the former member. What disgraceful, despicable behaviour, and the problem is that the member for Hillarys has not improved since coming into this place.

Several members interjected.

Dr A.D. BUTI: Mr Acting Speaker, the rabble over that side is phenomenal. We have heard more noise from them during my contribution than we ever hear during a matter of public interest, because they have no interest in matters of public policy. All they are interested in is arguing amongst themselves, and the Liberal Party arguing with the National Party. It is a disgrace. One would have thought that the dominant conservative party in Parliament would not have allowed the National Party to engage in this.

Mr P.A. Katsambanis: Sit down!

Dr A.D. BUTI: Calm down, member for Hillarys!

The ACTING SPEAKER: Member for Hillarys, please do not shout across the chamber like that!

MR J.R. QUIGLEY (Butler — Attorney General) [5.22 pm] — in reply: The Gender Reassignment Amendment Bill 2018 has certainly brought on some unexpected turns; the debate went into a bit of a culture war. I just want to briefly address that, because I have already approached the spokesperson for the Attorney General —

Mr P.A. Katsambanis: Shadow.

Mr J.R. QUIGLEY: The shadow Attorney General—I stand corrected. He raised a number of questions and I have shown him my answers. I will read them into *Hansard* shortly, because they address the short point in the bill.

I think members' comments in this debate have to be taken in context. The contribution that set off this sort of culture war, if I can call it that, was the very justified and passionate contribution made by the member for Perth, who is no longer in the chamber. The member for Perth is, of course, openly gay and as a result spent most of his childhood and adult life as part of a persecuted minority. In his contribution to the second reading debate, he reflected upon the attitude of the conservative party in this state to reforms around gender and sexuality and the like. His justifiable and passionate comments as a member of the gay community seemed to provoke an overly defensive reaction from the opposition; in other words, members opposite did not want to own their own history.

The member for Warnbro went into a number of social reforms that he claims the Liberal Party —

Mr P.A. Katsambanis: I think you're talking about the member for Dawesville.

Mr J.R. QUIGLEY: The member for Dawesville went into a number of social reforms that he claims the Liberal Party is responsible for, and, to a certain degree, he is right, but each of the reforms he cited were reforms of the federal Liberal Party, which at times has been more liberal than the Western Australian Liberal Party, which has tended to be more conservative.

I would like to briefly go over some history without going into the whole debate we have already heard today and on previous occasions. Members opposite have to own the history of their bias against minorities. I am not saying that present members are biased, but they cannot say that the member for Perth was not justified in referring in his comments to that history.

I turn back to 1983. The Indigenous people are a minority as well as the gays, and I read from the Liberal Party's policy document of 1983 —

We will not grant land rights to Aborigines on racial grounds.

Such land grants have caused immense problems in the Northern Territory and are outside the accepted philosophy that all Australian citizens are equal in their rights.

There is nothing unfair about maintaining the equality of all Australians ...

That is, equality if one is in the majority.

Then there were John Howard's comments in 1988, supported by Ian Sinclair, that we had to restrict Asians coming into Australia; that we were getting too many Asians in Australia. They have moved on from Asians now, of course, to people from the Middle East; Asia does not seem to figure so much now because they have moved on to another minority group in our community.

I refer to other law reforms that have been put before this Parliament. I can remember, back on 8 November 2001—my first year in this chamber—the then Premier, Hon Dr Geoff Gallop, contributing to a debate about sexuality. He stated, on page 5315 of *Hansard* —

This is not a question about what should or should not happen with individuals; this is a question about whether young people of that age should be treated as criminals. That is what it is about.

We were talking about not treating young people as criminals for homosexuality, and Mr McNee interrupted —

You are about moral bankruptcy.

That was what the minority community heard from the mouths of the Liberal Party on that occasion. In the same debate, on page 5309, we were debating gay couples' ability to raise children. Mr Barnett said —

... the Liberal Party will not in any way discount or reject the basic Christian and family values that underpin our society and institutions. Therefore, when the Liberal Party looks at issues such as these, we will start from the premise of what is right and wrong —

That is according to their judgement, of course. He continued —

That is not something that the Labor Party does. The Labor Party takes an extreme social position and then seeks to justify it with the argument of equality.

Here we are trying to achieve equality, and the member for Darling Range nods, but we were being criticised on that occasion for seeking to bring in reforms that achieved just what the member for Darling Range now acknowledges was an admirable ambition.

I shall not take up the chamber's time much longer. On 29 November, the then Leader of the Opposition, Mr Barnett, said that de facto couples should not have access to the Family Court. I am going back to this notion that the Liberal Party was responsible for social reform. I quote Mr Barnett —

As ... Leader of the Liberal Party, I do not support same-sex couples having access to the Family Court.

Once again, he was seeking to marginalise a minority of people in the community who choose not to be married but to live in de facto relationships by not allowing them access to the Family Court for property disputes and child disputes.

At page 6499 of *Hansard* of 5 December, Mr Board said —

This legislation seeks to provide that a homosexual relationship is as normal as a heterosexual relationship.

Is it not? Mr Board continues —

That is a fundamental shift in our thinking. Regardless of tolerance, equity, or the acceptance of gay or lesbian relationships, the mere fact that a homosexual relationship will be accepted as normal is a quantum shift in thinking for our community.

It was not the Western Australian Liberal Party that was in any way at the forefront of seeking social reform. It stood firmly with its foot on the hose, trying to restrict moves towards equality.

At page 6478 of *Hansard* of 5 December, the former member for Hillarys noted —

Anybody who believes that children can live normal lives—perhaps they can physically but not psychologically—with two parents of the same sex is living in cloud-cuckoo-land.

I am nearly at the end of it. I will not go on ad nauseam.

Dr D.J. Honey: You already have!

Mr J.R. QUIGLEY: No, member. I have so far taken but nine minutes of my 45 minutes to respond to a half-hour rant that tried to establish on an entirely false basis that the Liberal Party in Western Australia has been at the forefront of social reform and that the member for Perth was out of order in his passionate speech about the discrimination that gay people have suffered.

At page 1857 of *Hansard* of 16 October 2002, the former member for Hillarys said —

This Government is bereft of moral thinking. It is happy to allow gay and lesbian people to adopt children.

Of course they are allowed to adopt children. As a result of Labor's reforms, they are able to do that now, and that has been embraced by both sides of the house. It was the leadership of the Labor Party back then that brought about these social reforms. It is a shame that a passionate speech about social reform given by a member of this chamber who is a proud member of the gay community has brought on this false and entirely misplaced defence of the Liberal Party of Western Australia as being social reformers.

However, I return to this very short bill before the chamber this evening. Of course, this bill is only one of a number of bills that will comprise reform in this gender reassignment space and bring relief to people of the lesbian, gay, bisexual, transgender, queer, intersex community who have lived uncomfortably being recognised as a gender that they are not. I heard a very good explanation of this. Being of the generation that I am—pre-1980s, when it was not open—I represented clients who were charged with homosexual acts, which convictions have been expunged now as the result of a bill that we passed in this house and that was supported by everyone in this chamber. This bill is one of a number of bills that will address different aspects of discrimination against members of the LGBTIQ community.

This bill addresses the issue of people who could not seek to have their gender reassigned by the Gender Reassignment Board if at the time they were married. People could make an application to the Gender Reassignment Board to have their gender reassigned only if they were in an unmarried state but not if they were married. Of course, we have had same-sex marriage law reform, which, once again, was heralded as a big reform of the federal government and Mr Turnbull. In fact, just to set the record straight, we know that Mr Turnbull was forced into holding a referendum because members of the Liberal Party were prepared to cross the floor to bring on the vote on same-sex marriage and the then Prime Minister did not want the Liberal Party room to split on the matter, so they came up with this middle ground to leave it to the people. It was not led by the then Prime Minister, as asserted by the member for Dawesville; it was a saving act for the Liberal Party room, which was about to divide on the issue and had enough members to cross the floor and vote for same-sex marriage, so they found this way out. It certainly was not a question of leadership.

This bill is one of the shorter bills that I have brought before Parliament. I know that the member for Dawesville has kept score of the number of bills I have brought before Parliament; the opposition Whip and the member have

shown me their little chart. This one-pager will give me another strike on their little chart and take it up to 27 or 28, which is disturbing the Treasurer, who I think wants to split the budget into about 10 bills to catch up! Leaving that aside, this is a very simple bill.

The member for Hillarys, the opposition spokesperson for the shadow Attorney General, asked a number of questions.

I get on well with the member for Hillarys in terms of the management of legislation through this chamber, so I noted down his questions, prepared written answers and took them to him and allowed him to read my notes—he is nodding in assent and affirmation that that is what we did. I agreed that we might be able to avoid consideration in detail on this little bill if I were able to answer the questions he posed during his contribution to the second reading debate. I gave an undertaking that I would read the question and the given answer into *Hansard* to expedite the passage of the bill this evening. The first question posed by the member for Hillarys in his contribution to the second reading debate concerned information that, according to the Gender Reassignment Board's 2017–18 annual report, the board refused two applications for recognition certificates. The honourable member asked why these refusals were made and whether they were made as a result of the operation of section 15(3), which we are now dealing with in this bill. The answer to the member's question is that before the Gender Reassignment Board can issue a gender recognition certificate, the board must be satisfied that an individual meets the criteria in sections 14 and 15 of the Western Australian Gender Reassignment Act, which includes satisfying the requirement that a person is not married. That requirement is set out in section 15(3). The decisions to refuse or grant recognition certificates are published annually in the Gender Reassignment Board's annual report. Information regarding the refusals specifically based on the operation of section 15(3) are not provided in the annual report and I am unable to provide them in answer to the question. This is because to do so has the potential to identify individual applicants who were not successful.

Mr P.A. Katsambanis: That is understandable; it is a tiny number.

Mr J.R. QUIGLEY: Section 22 of the Gender Reassignment Act WA strictly prohibits the issuing authority from releasing confidential information. I have read that answer into *Hansard*.

The second question by the member for Hillarys was: in the event that section 15(3) is deleted from the Western Australian Gender Reassignment Act 2000, does the government anticipate whether there will be a slight or large increase in gender reassignment applications? The government answer is: we are unable to confirm whether the number of gender reassignment applications will increase as a result of deleting section 15(3). However, my office has corresponded with several individuals who have strongly requested that this provision be removed as soon as possible in order to be eligible for a recognition certificate. This legislation is vitally important to the lesbian, gay, bisexual, transgender, intersex, queer community, regardless of the amount of applications that may or may not be made for gender reassignment. What is evident from the data on the total number of certificates issued by the board is that there has been a consistent increase since 2012–13. While the reasons are not evident, it is most likely partly due to changing society views in this regard. We would therefore certainly expect that the number will not come down from the 20 to 30 certificates issued per year, but it is anybody's guess, once this legislation goes through, whether there will be others who will be able to take advantage of the legislation.

The third question the government was asked was: can the government advise on the progress of the Law Reform Commission of Western Australia's review of the Western Australian legislation in relation to the recognition of a person's sex or change of sex or intersex status? The answer is that I anticipate that the commission will furnish its final report to me with recommendations for legislative change by the end of November 2018; that was my last mail on that. It was with interest, on that question of gender reassignment, that I listened to a very learned doctor on ABC Radio National, broadcast on AM 810, who said that we have to understand the difference between gender and sex. The doctor was saying that after much research, it was found that gender is embedded in our DNA and that sex is determined by examining the body to decide whether it is a male or a female according to genitalia. The doctor pointed out that some children are born whom one would suspect would be a male child but who have incomplete genitalia, and, perhaps cruelly or not, at birth or soon after birth doctors have performed an operation to make their genitalia female. What has been incredible is that longitudinal studies of these children has found that as they pass through puberty, they identify as male, even though their genitalia has been changed to replicate that of a female. They get to puberty and they then start to identify as male, evidencing that perhaps gender identification is embedded in our DNA and does not always match our bodies. That is something that the Law Reform Commission is looking at and the criteria under which those changes will happen.

Mr P.A. Katsambanis: That is the area that is commonly referred to or encompassed in the term “intersex”.

Mr J.R. QUIGLEY: Correct. That is what the Law Reform Commission is looking at; it will come back to us with a report on that.

There was a perhaps minor distraction in this debate, in response to what I thought was a passionate and justified speech by a member of this chamber who is openly gay and who spoke of the discrimination that that community has suffered over the years. The responses to that contribution turned it, unnecessarily I thought, into a little bit of

a culture war. I have tried to put that in its context. Yes, federally, some social reforms have been initiated by the Liberal Party, but we have to look very, very hard to find social reforms by the Western Australian Liberal Party, whose DNA is ultraconservative when it comes to social reforms.

Dr D.J. Honey: That doesn't give him an excuse to be abusive to members opposite.

Mrs A.K. Hayden: Which he was.

Mr J.R. QUIGLEY: I do not think the member for Perth was abusive. I do not want to go into that debate. What I wanted to say was that when Labor governments have brought forward social reform in this area, like the decriminalisation of sodomy, the former member for Carine and other members of the Liberal Party were pretty vicious. We brought this social reform through. Perhaps it is a result of the national referendum that my parliamentary friends on the other side of the chamber recognise that this reform has to happen and support the bill. That is the main thing that is coming out of the debate: this bill is passing through this chamber without dissent. That is a good thing. It is a step forward. We hope that this reform will bring some relief to those persons who married as a heterosexual couple but, as one member of that union then identifies as being of a different gender, must first divorce before that person can change the designation of their gender. Currently, they must first divorce, with all that entails—the emotion it entails—and then they change their gender, with the aim of then remarrying under the same-sex marriage laws.

I will just see whether I have an indication about whether I have satisfactorily answered the questions of the member for Hillarys.

Mr P.A. Katsambanis: You have, apart from perhaps very briefly expanding on what time frame you expect after you receive the Law Reform Commission report that you referred to. You are getting it at the end of November. What do you expect to happen after that, and in what time frame?

Mr J.R. QUIGLEY: What I expect to happen is that if it comes out with recommendations for legislative reform —

Mr P.A. Katsambanis: I am assuming it will.

Mr J.R. QUIGLEY: — I will take those legislative reforms to cabinet at some point in the new year, and then to caucus, and then bring them into this Parliament. I remind the member that I am doing my best. We have a big backlog of law reform. One of the pressing matters for law reform is the mentally impaired accused act, so that we can deal fairly with people who are mentally impaired and bring them in line with the national principles. The federal Attorney General just wrote to me to say, “How are you going in this regard?”, and I said, “Attorney, we intend to bring that in early next year.” We have fines enforcement law reform, which will keep people like Ms Dhu out of prison. A lot needs to happen. Member, I will be dealing with the Law Reform Commission report as soon as I possibly can, because I want these people to be offered a better life, unburdened by laws of yesteryear.

Mr P.A. Katsambanis: Will the report be publicly released during that process?

Mr J.R. QUIGLEY: The Law Reform Commission report will be a public report.

Mr P.A. Katsambanis: Good.

Mr J.R. QUIGLEY: I will be happy to discuss the program with the member behind the Chair.

Mr P.A. Katsambanis: Let's have a look at the report first!

Mr J.R. QUIGLEY: Yes, we will. I get on with the member, and I want to manage this legislation smoothly, because a lot of it is coming through. I do not want to make the member's job or my job any harder by having tussles between us. I want us to work together for the betterment of the people of Western Australia.

Mr P.A. Katsambanis: You've got to ease up on those comments, because I'm not necessarily sure that's a positive thing for my career!

Mr J.R. QUIGLEY: I am sorry; I will.

Mr P.A. Katsambanis: That's all right. I was just joking!

Mr J.R. QUIGLEY: I am talking about the management of bills in this chamber. I think we manage them quite well, member. The member scrutinises them, and we get them through. We work in a manner that I would like to think is aimed at improving the statute book for the people of Western Australia.

Mr P.A. Katsambanis: That's what we're here for.

Mr J.R. QUIGLEY: That is what we are doing with the uniform evidence act. That is another one. I have got the cabinet submission. I cannot tell the member when we will get to the transgender sex reform legislation, because I need to get the uniform evidence act through, but I know we will work together on that.

Mr P.A. Katsambanis: Please note that there is no party room position on the uniform evidence act, but you know my position.

Mr J.R. QUIGLEY: I know the member's position, but we will work together to deal with this, hopefully for the betterment of the people of Western Australia.

I thank the opposition for its support for this bill this evening, and I commend it to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr J.R. Quigley (Attorney General)**, and transmitted to the Council.