

Ms Lisa Baker; Mr Mark McGowan; Dr Tony Buti; Mr Peter Abetz; Mr Colin Barnett; Dr Graham Jacobs; Mr Roger Cook; Ms Janine Freeman; Dr Kim Hames; Mrs Michelle Roberts; Mr Ben Wyatt; Dr Mike Nahan; Mr Joe Francis; Mr Albert Jacob; Ms Josie Farrer

MARRIAGE EQUALITY

Motion

MS L.L. BAKER (Maylands) [4.11 pm]: I move —

That this house supports marriage equality and calls on the Parliament of the Commonwealth of Australia to amend the commonwealth Marriage Act 1961 to provide for marriage equality.

I originally moved this motion nearly two years ago before some decisions on the matter were made by the High Court of Australia and before the most recent Senate inquiry handed down its report into this issue just last week. A lot of water has passed under the bridge, not the least of which was the flood from Ireland and America recently when those countries significantly reformed laws on this issue. There are quite a few people on this side of the house and some on the other side of the house who wish to speak so I will try to keep my speech to 15 minutes.

Mr B.S. Wyatt: Promise?

Ms L.L. BAKER: I will try to do my best, member for Victoria Park. For some members of this house this may be an academic exercise, but I know that this has direct reference to the lives of most members because they will have friends or relatives—they may be children, mothers, fathers and people from all over the community—who are impacted by the legal barriers to marriage for gays and lesbians. However, I must point out to each of you that this is personal. I stand before you to say that this debate is personal for me because I am not permitted to marry the person I love. As I have done in the past, I again ask that members stand with me against outdated, fearful and hopelessly compromised views about what it means to be gay in Australia in the twenty-first century. A couple of years ago the High Court of Australia, the greatest court in our land, the court that we turn to for advice on matters of the most gravity and seriousness and on matters of constitutional reform, made it very clear to the commonwealth and to all the states that it is the Commonwealth of Australia's right and responsibility to make laws on marriage. Indeed, the state could make laws but they could be up for challenge—we know that now.

This motion prods the federal government to do something: to stop sitting on its hands on this matter, to stop using excuses and to stop wasting time and energy with meaningless exercises and expensive opinion polls. There is no legal reason for the federal government to spend \$158.4 million of taxpayers' money on a plebiscite, and that is just the start of the cost of the actual plebiscite. If we add the cost that governments have traditionally contributed to the for and against cases, we are looking at a much bigger cost to the taxpayers of Australia. We should bear in mind that this is taxpayers' money that our Liberal–National federal government is prepared to spend while it is in complete ignorance of the fact that the High Court of Australia's advice is to just do it! A plebiscite does not change the Constitution, nor does it change any legislation. Indeed, the world could just go on as though there was never a plebiscite. The government does not have to act on the results; it might be silly to ignore it but it does not have to act on the results.

Mr C.J. Barnett: But a referendum is to change the Constitution.

Ms L.L. BAKER: That is correct. I said a plebiscite. It is, in fact, a giant and very expensive opinion poll, and this is after numerous opinion polls have already shown that a clear majority of Australians are in support of this change. Professor George Williams of the Faculty of Law at the University of New South Wales says that there must be better things on which to spend money. The new Australian Prime Minister's views on marriage equality are well known, particularly to my community, but he seems to have traded his ethics for his new job. I urge the Prime Minister to consider the advice of his Senate committee that released a report last week and asked that a bill be introduced into the federal Parliament for same-sex marriage as a matter of urgency with all parliamentarians being given a free vote. Last week when Malcolm Turnbull was asked about his new job and the issue of marriage equality in Australia he said, "Any policy can be changed, but it would have to be considered by the cabinet and then the party room." Well, Prime Minister, I am standing with 72 per cent of Australians side by side and telling you that now is the time to reconsider your party's delaying tactics. Prime Minister, I am asking you to show courage, authority and leadership on this issue. The heart of the issue is having the courage to reject discrimination and prejudice against our brothers, sisters, neighbours, fathers, mothers, children and friends. At the heart of this issue are my colleagues rejecting discrimination against me. Each and every one of us is entitled to choose who we love for the rest of our lives. I say to those who oppose or fear marriage equality that marriage is not a statement of moral ascendancy but a statement of love. A group set up to oppose marriage equality demanded recently that those with a different view must not be discriminated against. I agree completely with that. However, I would argue that a plebiscite with the accompanying media hype and public campaigns will be divisive and only serve to rip the community apart further.

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My partner and I are godparents to many of our friends' and families' children. The kids have grown up with us. We have been babysitters, advisers, teachers, confidants and friends to the kids in our extended family. Now and then our families' or our friends' kids curiously ask their parents if Auntie Lisa and Auntie Kathleen are married and are told, "Well, they love each other just like mummy and daddy love each other, so it is just like they are married." But, members, my brother and his wife should not have to explain our relationship to my precious niece and nephew. We are Thomas and Emily's aunts and we love each other and we love them.

In giving evidence to the Senate committee last month, the Australian Psychological Society and the Human Rights Law Centre both urged against a plebiscite saying that it would present risks to the health and wellbeing of those most affected. I want to read two quotes that go to that point. These are from the Rainbow Families Council's submission to the Senate inquiry. The first is from two mums who have a five and an eight-year-old. It reads —

We are concerned that allowing people to vote for or against tolerance and acceptance is a recipe for disaster in schoolyards, workplaces, football games and everywhere else we live our lives for the most part without facing homophobic outbursts and we have friends, neighbours and colleagues who accept and embrace us. Our kids deserve to be protected from the views of people who don't agree or understand their parents choices wherever possible and a high profile vote, especially with media campaigns which may be judgemental at best or breed hatred at worst, is a dangerous path to follow.

The second quote states —

We wish to make it clear that our children are very much loved and wanted and in reality, marriage equality or not, our children are here now. They already exist and deserve to live in their communities without facing hate and discrimination.

We believe that if a public vote like a plebiscite or a referendum were to be undertaken, statements similar to those expressed by some organisations or institutions have the potential to impact the health and wellbeing of our children and rainbow families, as well as those who care for them.

Members, the federal government is perpetuating a dreadful disconnect between itself and this community by failing to move forward on this issue. We are sending the wrong message by taking the pathway of the chiefs and the cowards. The Australian community has overwhelmingly embraced marriage equality as logical, necessary, commonplace and, indeed, harmless. When organisations like the National Rugby League and other sporting codes in this country have indicated their support for marriage equality, surely the federal government realises that it is hopelessly out of touch and has been left way behind the public on this reform. For those who know Alan Joyce—not personally; I do not know him personally—the Irish Catholic CEO of our national carrier Qantas, he says —

If parliament can decide, why doesn't parliament just make the decision?

... There are lots of hard decisions made all the time, should we be asking the people on every issue? The country would be ungovernable.

By the way, in case members did not know, probably the least controversial aspect of Alan Joyce is that he is gay—and a strong advocate of marriage equality, I might say.

Those members who oppose my right to be treated equitably do so on a very narrow base with antiquated views of Australian society in this century. Marriage equality is a matter of rights—human rights. I have the right to marry the person I love. It is not a gift to be bestowed by others, nor is it something we should have to wait to receive when others feel comfortable and ready to give it. The formal and legally protected right to marry should be based on dignity, fairness and equality. And, members, it should be available right now to people like me.

Opposition members: Hear, hear!

MR M. MCGOWAN (Rockingham — Leader of the Opposition) [4.23 pm]: I rise to support the member for Maylands. I think she made a very moving and meaningful speech. She spoke about her personal circumstances, and that would be an emotional thing for her to do, and I appreciate that it is an issue she has taken up from the heart. She has wanted to bring on this motion for some considerable period. Originally we were considering whether or not the state had the capacity to legislate. The High Court made it plain that it is an issue that comes under the commonwealth Marriage Act and the states cannot legislate. Various people were married under the Australian Capital Territory laws and were then unmarried a few days later when the laws were struck down by the High Court.

This Parliament has the opportunity to do two things. We have the opportunity to say that we as a Parliament vote in favour of marriage equality. In addition, we have the opportunity to advise the commonwealth Parliament

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what the view is of the lower house of the Western Australian Parliament. It will be another voice. There are a lot of voices out there but, to be fair, it is a fairly powerful voice on these issues. Over the next few hours I look forward to a respectful and reasonable debate by members on these things, but I want to make a number of points, firstly about the commonwealth government's current plan for a plebiscite. The reason I think a plebiscite is flawed is predominantly because it is not binding. I believe that most Australians, when asked, would vote in favour of marriage equality. I think there would be an almighty scare campaign, but I think most Australians are reasonable and fair enough to see through that and to vote for it. However, it is not binding, and if there were a referendum on this issue to amend the commonwealth Constitution, it would need a majority of the vote and a majority of the states, and that is hardly fair either. All a plebiscite would do is advise commonwealth members of Parliament what the majority opinion is in the country. That does not mean they have to vote for it.

I think a far better and, I must add, less expensive initiative in this regard is for the commonwealth Parliament to allow a free vote on these issues—bring it on and allow a free vote. The last time there was a plebiscite in Australia, that I can determine, was in 1977; it was on what our national anthem would be. I can understand why there was a plebiscite on that. I understand why there might be a plebiscite on the flag, as was done in New Zealand. I cannot understand why on a matter like this the government would have a plebiscite. It does not fit within those views.

Mr C.J. Barnett: It was a survey; not a plebiscite in my memory. I say that because I actually worked on the project.

Mr M. McGOWAN: Okay; there we go. I am not sure —

Mr C.J. Barnett: It was a survey of about 30 000 people.

Mr M. McGOWAN: My recollection is going along as a 10-year-old in 1977 while my parents voted, and I think they voted for *Waltzing Matilda* from memory!

Mr R.H. Cook: Everyone did! Why did we not get that result?

Mr M. McGOWAN: In any event, it brings me to the next point: We have come a long way as a society. I know discrimination exists, and this issue is an example of discrimination. As the member for Maylands said, she cannot marry the person she loves, unlike the majority of us in this house. Discrimination exists, but I think we have come a long way. There have been a number of milestones along that road that got us to this point. I want to say this to the house: I look back now at some of the kids I went to school with when I was growing up in country towns, and clearly I think some of them were gay. I would not have known it at the time, and did not realise at the time, that some of the boys in my class would have been gay, yet words abounded. Derogatory, horrible phrases abounded when we were in the playground, playing at the river, on sporting fields—words like poof, faggot and homo. All that phraseology was out there, yet there were kids I grew up with, and indeed kids I went to university with—and they were kids—who would have been deeply hurt by those sorts of words that were thrown around as a negative, derogatory phrase to put someone down.

That was what society was like in the 1970s and 1980s. I do not know what it is like in schools and universities these days. I expect it is heaps better—I hope it is heaps better. However, that was my experience, having lived in small country towns and growing up with kids who, as I said, as I look back now, were clearly gay, and having gone to a university college with young men and young women who were clearly gay and lesbian, in hindsight, but who never admitted to it at that point in time. Does anyone seriously think those people chose to be gay? Does anyone seriously think they chose that as a lifestyle, as is said, considering the environment that existed in the 1970s and 1980s in Australia, and indeed before that, and that probably exists in some parts of this country today? Of course they did not choose that as a lifestyle, as some people try to portray. I have three children. Any one of my children could grow up and be gay or lesbian. When we consider the fact that it is not a choice and any one of us could have children who are gay or lesbian, is it not the case that we should look at it through the prism of how they look at this issue? As I have said, attitudes have much improved, and the derogatory terms are not as common. The laws were changed in 2001 to remove discrimination at a state level. However, marriage discrimination still exists. I think that discrimination should have been dealt with before now and should have been dealt with by the commonwealth Parliament.

In 2001—that is 14 years ago now—this Parliament dealt with a range of discrimination issues in state laws. That included adoption, in-vitro fertilisation, guardianship and administration, deceased persons' estates, superannuation, and transplant laws. This Parliament passed laws to remove discrimination in all those areas. From memory, the member for Girrawheen was intimately involved in that legislation, and about 40 areas of discrimination were removed by this Parliament. That was a big debate for those of us who were here at the time. I must admit I was pretty junior and pretty young at the time. It was a big debate. I remember that Jim McGinty, the then Attorney General, was subject to much vilification in relation to that bill. I remember bumper stickers

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that were distributed by some of our political opponents saying, “At times like this, you don’t need a McGinty”. Those were the bumper stickers that were distributed by some members of Parliament at that time as part of the attack on Jim undertaking these reforms. Honestly, in hindsight, who would go back now? That is now part of the social fabric of Western Australia. I think marriage equality could end up in exactly the same way. I reckon that if the commonwealth Parliament passed marriage equality legislation, within about a month it would be normal and everyone would have moved on and be wondering what that was all about.

A member interjected.

Mr M. McGOWAN: Absolutely. We would be able to go to some great weddings! There are people who have been hanging around waiting for this opportunity. They would be great weddings. They would be celebrations. It would actually be a great time to be alive.

Why do I think marriage equality should happen? Firstly, it is about removing discrimination and prejudice by allowing people to choose who they love and who they marry, in the same way as everyone else is able to make that choice. Secondly, it is about allowing for personal choice in these issues, rather than having the government make that decision for us. The government is currently deciding by law whether people can get married, rather than allowing personal choice on this matter. It is about allowing one group in society to have the same rights as another group in society. At the base of it for me, if it will make people happy, and if it will not hurt anyone, why would we deny it? Will it hurt me? No. Will it hurt my family? No. It will not impact me at all. If one of my children was gay or lesbian, I would want them to have the right of marriage equality. However, at the core of it for me, above everything else—above prejudice and discrimination and all those other issues—if it will make a group of people happy, and if the commonwealth Parliament at our urging can change the law and make a group of people happy, let us do it and make them happy.

There are many arguments out there. I have heard the argument put, in a very forceful presentation, that marriage is about having children. Of course we all know that many married people do not have children, either by choice or otherwise. I have heard the argument put that the children of single parents do not achieve as highly and are handicapped in life. This is a side point, but I want to remind members of three people who have come from a single-parent family: Bill Clinton, Barack Obama and Malcolm Turnbull. Single parents are different from a gay or lesbian couple who marry. However, it is important to acknowledge the principle of not assuming that is somehow a lesser environment or lesser relationship.

I want to make a few other points. Australia has been at the forefront of many things. In 1902, the commonwealth Parliament allowed for all men and women, whether single or married, to vote, with the exception of Aboriginal and Torres Strait Islander people. In 1962, the Commonwealth Electoral Act was changed to allow for Aboriginal suffrage at the commonwealth level; and that occurred also in 1962 in Western Australia, and in Queensland in 1965. In Western Australia, the right to vote was granted in 1899, and the right for women to stand for Parliament was granted in 1920. In 1973, the voting age was lowered to 18 years to reflect the fact that 18-year-olds were allowed to fight for their country and they should be allowed to vote on whether the government might send them away to fight for their country. Western Australia has a long history of being at the forefront of social change in Australia. Australia beat a lot of countries in relation to suffrage, and we beat most other countries to allow for universal suffrage.

In relation to gay marriage, in 2001 the Netherlands granted the right to same-sex marriage. That was followed in 2003 by Belgium; in 2005 by Spain and Canada; in 2006 by South Africa; in 2009 by Norway and Sweden; in 2010 by Portugal, Iceland and Argentina; in 2012 by Denmark; in 2013 by Brazil, France, Uruguay and New Zealand; in 2014 by England and Wales, and then Scotland; and in 2015 by Luxembourg and the United States. The United States of America has allowed for same-sex marriage, for marriage equality. For goodness sake! The United States has allowed for it, and the President of the United States has campaigned for it, yet Australia does not have marriage equality and shows no sign of doing that unless the pressure amps so much that the commonwealth Parliament allows for it. This is our opportunity to send a message to the commonwealth Parliament that it is time for this important change and it is time for the commonwealth to resolve this issue. It is an issue of discrimination, of prejudice, but above all for me it is an issue of allowing people to live out their lives happily in a way that does not adversely affect others.

DR A.D. BUTI (Armadale) [4.39 pm]: Before I get to my contribution in regard to the exchange between the Leader of the Opposition and the Premier, there was a plebiscite on the national anthem in 1977. There were four choices: *God Save the Queen*, *Advance Australia Fair*, *Song of Australia* and *Waltzing Matilda*, and obviously *Advance Australia Fair* won, with about 48 per cent of people voting for it.

I stand to contribute to this debate on marriage equality, and I stand very proudly next to my friend the member for Maylands, Lisa Baker. Of course this is a very personal issue for the member for Maylands, but I think in

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many respects it is probably a personal issue for all of us, because I am sure all of us have friends and maybe family members who are gay. I do not know how I could stand before this Parliament and deny them the right that I have, and that all of us have, to make a choice about whether we want to marry or not. Mention has already been made of the 2013 High Court case *The Commonwealth of Australia v The Australian Capital Territory* when the High Court clearly gave the view that the Australian Constitution does not deny the possibility of the federal Parliament enacting legislation to respect same-sex marriage. The statement from the High Court is as follows —

Today the High Court decided unanimously that the *Marriage Equality (Same Sex) Act 2013*, enacted by the Legislative Assembly for the Australian Capital Territory, cannot operate concurrently with the federal *Marriage Act 1961*. The Court held that the federal Parliament has power under the Australian Constitution to legislate with respect to same sex marriage, and that under the Constitution and federal law as it now stands, whether same sex marriage should be provided for by law is a matter for the federal Parliament.

That is what I think the Leader of the Opposition was articulating. Therefore, this whole idea that has been thrown up by those whom I would consider opponents to the idea of same-sex marriage that there should be a referendum is absolutely silly, and even the number one lawmaker in the land, the federal Attorney-General, has stated in the Senate that there is no need for a referendum because the Constitution does not need to be changed; the federal Parliament has the power today to enact legislation to legalise same-sex marriage. That decision of the High Court was very interesting because it basically stated that the definition or concept of marriage is a matter to be decided by legislation and we do not need to be tied to what the concept of marriage may have been in the nineteenth century or any other time. The Parliament has the right to legislate to recognise same-sex marriage and it is not prohibited in doing so by any concept of what was meant by marriage at the time the Constitution was drafted in 1901.

Although this may be a bit superficial and simplistic, it would generally be found that more conservatives are opposed to same-sex marriage than so-called liberal-progressive voters, not from a party political point of view but from a philosophical point of view. However, a number of conservatives argue that same-sex marriage should be recognised. In *Quadrant*—which I am sure everyone realises is not the progressive left-wing magazine of the Labor Party and is generally considered to be quite a conservative publication—an article written in March 2012 by John Zerilli entitled “Why Conservatives Should Support Same-Sex Marriage” goes through a number of facts. He writes that when new facts arise, conservatives should take them into consideration when making their decision. The article states —

For the traditional and consistent conservative, I would say that the matter very largely boils down to the facts: when they change, so should our opinions.

He writes something else that I think is important, and the member for Maylands and the Leader of the Opposition mentioned this. I quote —

The facts are that people do not choose their sexual orientation any more than people choose to be right-handed or left-handed. People simply have no choice in the matter of their sexual orientation.

There may be people in this Parliament or other Parliaments who believe that whether one is gay or not gay is a lifestyle choice—it is not. I am sure many of us have had conversations with people who are gay, and some of the torture they have been through, especially in their teenage years, has been unbelievably hard for them to bear and some of the consequences have been fatal. I do not know how people can say that it is a choice. It is no more a choice than, as John Zerilli states, whether somebody is right-handed or left-handed. He states further —

Facts never frighten real conservatives ...

They should agree to listen to the facts; and if those facts have changed over time, they should take them into consideration. He also states —

... while it is true that one of the traditional functions of marriage has been seen to be a vehicle for the rearing of children, people marry for many reasons. Reproduction cannot exhaust matrimonial possibilities, since many people marry freely without the slightest inclination, or capacity, for having children. Infertile couples get the same marriage certificate as fertile ones.

Third, the “children’s rights” argument fails. The marriage debate is entirely separate from the children’s rights debate: there are already gay men and women with fully acknowledged and legally protected parental roles in many ... societies ...

If we are saying that only people in heterosexual marriage relationships should have children, there are already gay people with children, so that marriage argument cannot be upheld. The article continues —

Extract from Hansard

[ASSEMBLY — Wednesday, 23 September 2015]

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Ms Lisa Baker; Mr Mark McGowan; Dr Tony Buti; Mr Peter Abetz; Mr Colin Barnett; Dr Graham Jacobs; Mr Roger Cook; Ms Janine Freeman; Dr Kim Hames; Mrs Michelle Roberts; Mr Ben Wyatt; Dr Mike Nahan; Mr Joe Francis; Mr Albert Jacob; Ms Josie Farrer

Fourth, it is said that marriage civilises lust the way capitalism civilises greed. If there is any truth to this, why would conservatives not welcome the opportunity of extending the civilising influence of marriage to behaviour which they deem is, in its present form, likely to lead to promiscuity? They might complain about the “homosexual lifestyle”, and yet the one essential which they concede makes the heterosexual lifestyle preferable from the point of view of monogamy—namely, legally institutionalised commitment—is the one thing now lacking and most resisted.

An article entitled “A Conservative Case for Gay Marriage” by A. Barton Hinkle mentions four reasons that conservatives should accept gay marriage. It states the following —

(1) *Gay marriage is good for “the institution of marriage.”*

...

(2) *Gay marriage fosters virtue.*

...

(3) *Gay marriage benefits children.*

I will talk about that a bit later. And —

(4) *Banning gay marriage injects government where it doesn't belong.*

I would be interested in where libertarians in this place sit on this issue, because if one is a true libertarian, they would not agree that the government should prevent people from making choices about who they marry.

In regards to another conservative, Judge Richard Posner is a famous US judge and a conservative. He is a judge on the United States Court of Appeals for the Seventh Circuit. In a 2014 decision, *Baskin v Bogan*, he made a number of comments in regards to gay marriage. I will read some of them. In this case, one state—I cannot remember which—was trying to prevent marriage equality. Judge Posner states that an oral argument the state lawyer made was as follows —

Heterosexuals get drunk and pregnant, producing unwanted children; their reward is to be allowed to marry. Homosexual couples do not produce unwanted children; their reward is to be denied the right to marry. Go figure.

Another quote from the ruling is as follows —

The state should *want* homosexual couples who adopt children—as, to repeat, they are permitted to do—to be married, if it is serious in arguing that the only governmental interest in marriage derives from the problem of accidental births.

Another quote reads —

“If the state’s policy of trying to channel procreative sex into marriage were succeeding, we should expect a drop in the percentage of children born to unmarried women, or at least not an increase in that percentage.

He then refers to the argument about tradition, stating that there are good and bad traditions so we do not necessarily need to uphold tradition, particularly if it results in discrimination.

Justice Anthony Kennedy of the US Supreme Court, who is generally considered to be more on the conservative side, stated in the Supreme Court decision that upheld same-sex marriage in the US that to deny gay people the right to be married is to condemn them to a life of loneliness, “excluded from one of civilization’s oldest institutions”—that of marriage.

One of the most prominent US writers in regard to same-sex marriage is Professor Kenji Yoshino of New York University School of Law. He wrote a fantastic book based on his own experiences, titled *Covering: The Hidden Assault on Our Civil Rights*. He replied to an argument presented by a professor at Princeton, Robert George, against same-sex marriage. Yoshino states that the main argument by a lot of conservatives is this whole idea that the purpose of marriage is procreation. An article he wrote in 2010 states —

The flaw is that the principle of “common procreation,” as this idea is known, is overinclusive. It demeans the marriages of many opposite-sex couples who do not give birth to biological children, including infertile couples, couples who have chosen not to have children, couples who have adopted, and couples who have used reproductive technologies to create their families. My critique concluded that the capacity (or desire) to procreate is not a principled ground on which to define same-sex couples out of the institution of marriage while pretending to keep all opposite-sex couples inside it.

Arguments will be made that it is better for a child to be raised by a mother and father. Most of these people talk about the biological mother and biological father: what about people who have used technology to have a child?

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They are not necessarily a biological couple: should they be excluded? I do not think so. Yoshino refers to research on the conservatives' idea that two biological parents are what is best for a child, and that that research does not often compare gay couples and heterosexual couples; it often compares biological heterosexual parents with a single parent or parent who has had difficulties or divorced couples et cetera. So it is not comparing like with like.

I know other people want to speak, so I will conclude my comments shortly. I refer to a famous speech made in the New Zealand Parliament by Maurice Williamson—a National Party member of Parliament. He stated —

However, a huge amount of the opposition was from moderates, from people who were concerned, who were seriously worried, what this might do to the fabric of our society. I respect their concern. I respect their worry. They were worried about what it might do to their families and so on.

Let me repeat to them now sir, all we are doing with this bill is allowing two people who love each other to have that love recognized by way of marriage. That is all we are doing.

We are not declaring nuclear war on a foreign State. We are not bringing a virus in that could wipe out our agricultural sector for ever. We are allowing two people who love each other to have that recognized, and I can't see what's wrong with that for love nor money ... But I give a promise to those people who are opposed to this bill right now. I give you a watertight guaranteed promise. The sun will still rise tomorrow.

Your teenage daughter will still argue back with you as if she knows everything. Your mortgage will not grow. You will not have skin diseases or rashes, or toads in your bed, sir. The world will just carry on.

And finally, can I say sir, one of the messages I had was that this bill was the cause of our drought. ... you will see that in the Pakuranga electorate this morning it was pouring with rain.

Members, there is nothing to be worried about. All we are doing is trying to allow people the right to marry. People in this house who call themselves libertarians cannot oppose that concept. It is usually the conservatives who say that we should keep government out of people's lives as much as possible. Why would people reject the ability of people who love each other to marry?

MR P. ABETZ (Southern River) [4.54 pm]: I rise to speak against this motion. I think same-sex marriage advocates have certainly mounted a very clever, but, I would say, deceptive campaign by claiming that same-sex marriage is actually about marriage equality.

Let us just look at the phrase "marriage equality"—firstly, the word "marriage". In any society there are many different relationships. Whatever those relationships are—whether they are between, say, an aged mother living with her single son, or two sisters living together—they are very, very valuable and very beneficial relationships; there is no question about that. Loving, affectionate relationships between adults certainly should be respected, and they are very valuable in any society. But those relationships are not marriages. The word "marriage" has been reserved for the union of a man and a woman to the exclusion of all others, voluntarily entered into for life. That has been pretty much the definition for thousands of years. In fact, it predates Christianity.

Mr J.R. Quigley: No —

The ACTING SPEAKER (Ms J.M. Freeman): Stop!

Mr P. ABETZ: It predates even Judaism in that the ancient Egyptians had that kind of arrangement. Aboriginal people do as well; in fact, mainstream media did not give it much coverage, but an Uluru bark petition was presented to federal Parliament a little while ago by a whole host of Aboriginal people—to save time, I will not read out all the different tribes—and I will just read points 5 and 6 of the petition presented to Parliament. They read —

5. It is therefore an affront to the Aboriginal People of Australia to suggest another definition of marriage.

6. The Aboriginal people of Australia strongly call upon you to reject any attempt to redefine the institution of marriage, and in doing so, honour the sanctity of both the tradition of marriage and the spiritual implication of this sacred union.

That was signed by a large number of Aboriginal people. It is only the second time in the history of our federal Parliament that a bark petition has been presented to the Parliament.

It is interesting that in ancient Greece and in the declining years of the Roman Empire, homosexual relationships were very common but they never went down the path of calling such relationships marriage. Cultures right across the globe since time immemorial have had the institution of marriage—the union of a man and a woman,

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sometimes a man and more than one woman, but always male and female. A letter sent to Tony Abbott on 11 June 2015 by a huge number of religious leaders in Australia, ranging from Muslim, Jewish, Christian, Catholic and the Orthodox faiths, states —

To uphold marriage as the mutual love of a man and a woman, open to the gift of children, is not bigotry or prejudice.

It is interesting that only a few years ago our federal Parliament very solidly reaffirmed what has always been understood as the meaning of marriage. Why? Because it recognised that whether someone is of Aboriginal, European, African, Asian or Polynesian descent or whatever, whether someone is Muslim, Jewish, Hindu, Buddhist, Christian, Shinto or whatever religion, or atheist, marriage has always been between a man and a woman. The notion of same-sex marriage is, in terms of human history, an exceedingly recent idea. In fact, if members go back in gay literature, they will find that in the 1980s and 1990s, and even today still, there are many gays who are vehemently opposed to marriage in any form. Brian Greig, who is probably known to many members, perhaps even personally, because he served as a senator for Western Australia, was quoted in an article in *The Australian* of 20 August 2013. He said —

“My experience is that the vast majority of gay and lesbian citizens do not support the notion of marriage as it currently stands,” Mr Greig, then a senator, said in December 1999. “They see it as a very heterosexual and outdated institution that should be modified and not copied.”

The article continues —

In the pages of *The Australian*, the phrase “gay marriage” cropped up once every two months on average between 1996 and 2002; in the past three years it has been appearing almost daily.

The article further down states —

Same-sex marriage is not easily embraced by Islamic and other non-Western cultures where loyalty to family and tradition trump Western notions of liberties and rights.

I find it interesting that various reports indicate that in the Netherlands, where same-sex marriage has been available for quite a number of years, only four per cent of gays and lesbians in long-term relationships have chosen to marry. When they were asked why not, their response was, “It’s not marriage.” The reason for them saying that, particularly among homosexual men, is that they generally want what they term an open relationship. I would like to quote from a transcript of a panel discussion of homosexual authors at the 2012 Sydney Writers’ Festival. Dennis Altman was one of the people on the panel, and he says —

The original concept of marriage in the western world of course was based heavily on the idea of monogamy ...

Further on he says —

Now I am going to speak now as a gay man: one of the things about gay male culture is that it is not a monogamous culture. All the evidence we have suggests that monogamy is a myth. There are many longstanding gay relationships. There are virtually no longstanding monogamous gay relationships.

He continues further on —

But I do get very anxious when I am told that people want to have a marriage that is exactly the same as the ones that their heterosexual sisters and brothers have. What their heterosexual sisters and brothers are signing up for—whatever they do in practice—is a belief in life-long monogamy.

There is a level of hypocrisy in that—that is built into the marriage ceremony. That, I do not want to see replicated.

He goes on after someone else has chipped in, and says —

I would love to have the people who are out there arguing for same sex marriage say “lets be clear: Marriage is about primary emotional commitment to another person and it doesn’t mean I won’t **** around.

Why have societies around the globe embraced marriage as a male–female relationship? The answer is quite simple: because it creates the stable context in which children may be born and nurtured, thus ensuring the future of society. The sad chapter of our history of the Stolen Generations surely points out to us that kids want to be brought up by their biological mum and dad, if that is at all possible. We know the massive problem that is emerging for children conceived by donor sperm or donor egg through IVF. They form their own organisations. I will not go into that now because I spoke about that when we debated the Surrogacy Bill. Many of the people

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who were conceived through donor egg or sperm are desperate to find their biological identity, and there are whole websites and movements that deal with that. But, as I said, I will not belabour that point because we covered that at the time of the Surrogacy Bill.

Last year, through the university internship program, I asked one of the students to do a literature review for me on the different parenting situations of children and the outcomes. It was rather interesting that in reviewing the literature, it did not matter which country they looked at, whether it was the United States or Australia—fairly limited research is done in Australia—the evidence is clear that children who are brought up by their married biological parents do far better in all sorts of parameters, including education outcomes, longevity, earning income et cetera and also the stability of their own relationships later on. The next best outcome was for children with biological parents in a de facto relationship, followed by step-families, single parent families and then came children brought up in a same-sex household. I take the point that the member for Armadale made that those kids generally have gone through the trauma of a family break-up and end up being with one of those parents. Nonetheless, Dawn Stefanowicz, who was brought up by her homosexual father and his string of partners, has written a book *Out from Under: The Impact of Homosexual Parenting*, telling her story and also citing the experiences of many others in a similar situation. I encourage members to read that book.

If we redefine marriage to include same-sex relationships, it will be inevitable that men in same-sex relationships will be accessing surrogacy, and lesbian couples will be accessing donor sperm to have their children. By doing that, we would be enshrining in law something that will result in such children missing either a mother or a father. The accounts of kids brought up by same-sex parents tell over and over again that as much as they appreciated the efforts of their two mums or two dads, mums and dads are different; they are complementary. Indeed, if they were not, why would we worry about wanting to address the so-called gender imbalance in Parliaments and company boards? If there is no difference between male and female, why do we worry whether there are blokes or women in Parliament or on boards? There is a very clear difference—a biological difference, a psychological difference between men and women—and that certainly plays out in the parenting of children.

No matter what arrangements people of the same sex might make with each other regarding their sexual lifestyle and commitment, it is not marriage. Even if we did call it marriage, I put it to the house that it is actually fudging the definition. Language normally has a term that has a certain meaning and then as language develops we develop more specific terms that make it more precise. But here, if we go for the term “same-sex marriage”, we will be taking a term that has a specific meaning and widening its meaning, rather than going into more refined language. For the same-sex relationship, I am saying that we can come up with a different word; we should not call it marriage.

I was pleased to be at the Marriage Unity rally on Sunday at Langley Park; there were about 1 500 people there. One of the speakers at the rally said that marriage has the untold benefit of providing children with mothers and fathers. Sometimes this does not work, but, as Katy Faust, the daughter of lesbian parents, said, that does not mean we should normalise the family structure that requires children to lose either a biological mother or father and that where possible children do best in a healthy family with their own biological mothers and fathers. He also said that he thinks, intuitively, most of us know that to be true and we are now hearing that more and more from those who have been deliberately brought up without that privilege. He said that we should not need to defend the marriage; we should not be attacked for simply stating that which we believe to be true in all societies in all of human history.

Let us look at the term “equality”. We can pretend there are no differences but the reality is that there is a significant difference, as I think I have, hopefully, outlined. The criteria for marriage are quite simple. As a person authorised under the Marriage Act to solemnise marriages, I had to check that people met certain criteria. They had to be over the age of 18; if not, they had to get a magistrate’s approval and all that sort of thing. They could not be biologically closely related to one another, for example, a brother and sister could not get married and that kind of thing. Clear criteria had to be met. In that sense, all Australians have marriage equality. If they meet the criteria, they can marry. In the same way, if I say that I cannot be a lawyer, is that unfair or unequal? No, it is not. If I meet the criteria because I have done the study and all of that, I could be a lawyer. If I do not meet the criteria, I simply cannot.

As I think the member for Armadale mentioned before, so I will not go into it again, the Gallop government passed a range of bills that took away discrimination against same-sex couples. In fact, in a media statement dated 14 November 2001, the Attorney General, Hon Jim McGinty, announced that —

Historic legislation to give gay and lesbian people the same rights as all others in the community was today introduced to State Parliament.

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That legislation was passed and is still in place. The commonwealth government modified, I think, 85 commonwealth laws to eliminate discrimination against same-sex couples and their children. So in that sense there is equality.

[Member's time extended.]

Mr P. ABETZ: I turn now to what happens in places where same-sex marriage has been legalised. Where same-sex marriage has been implemented, a whole lot of things are taking place. I want to highlight some of them for members. People are losing significant freedoms. Let me mention Rodney Croome, the gay activist from Tasmania, who wanted the Catholic Archbishop of Hobart to be taken to the Tasmanian Anti-Discrimination Tribunal for providing children in Catholic schools with a document that explains Catholic teaching about marriage. The church holds that marital love can be expressed only through the natural biological sexual union of a man and a woman; the only relationship that can, naturally, of itself, produce children. Christians, Jews, Muslims and most others the world over share that view. Here we have a militant activist saying that the Catholic Church should not have the right to teach what it has taught for a couple of thousand years. He is saying that it can no longer teach this. This is part of the problem.

The other issue is the way same-sex marriage can impact on people by eroding their freedoms. In the United States, there have been a number of cases, and in Ireland, the Ashers Baking Company has been found guilty, under an anti-discrimination law, of declining to decorate a cake with a pro-same-sex marriage slogan because the owner said that to do so would violate his conscience. They were fined £500. Those people in Ireland have now lost a freedom that they had before. Aaron and Melissa Klein from Oregon in the United States were fined \$US135 000 under its anti-discrimination law because they declined to bake a cake for a same-sex wedding. Cake shop owner Jack Phillips of Lakewood, Colorado, was told by a judge to either bake a cake for a same-sex couple's wedding or face fines under the anti-discrimination law. If I have a coffee shop and someone wants to buy a cup of coffee, whether they are gay, lesbian, transgender or whatever, I accept that I need to sell them that cup of coffee. There should be no discrimination there, but when we ask someone to actively participate in a wedding ceremony that violates their understanding and what they passionately believe and would violate their conscience to participate, I see the denial of that freedom to people as a very serious erosion of our rights. I hope that none of us wants to see those kinds of rights eroded. Elaine Huguenin declined to photograph a lesbian wedding. The New Mexico Supreme Court ruled that she had violated the state's Human Rights Act and was given a \$6 000 fine. As far as I am concerned, if a wedding photographer says, "I do only Catholic weddings", that should be their perfect right. Whether they do only Protestant weddings or Church of England weddings, why can that not be? We have had that right until now. Why elevate lesbian or gay couples to a status that exceeds that of others in the community?

I do not have the documentation here but in the wedding cake scenario of a gay couple asking the wedding cake people, who were happy to sell them a cake off the shelf, to write the slogan "We support same-sex marriage", they said, "Sorry, we can't do that." I believe it is wrong to ask someone to do that when it violates their conscience. That is what tends to happen in every jurisdiction where same-sex marriage has been legalised. The ACT Attorney-General, Simon Corbell, admitted in a letter to the Australian Christian Lobby in November 2013 that had his same-sex marriage law not been overturned by the High Court, it would have made it unlawful for those who provide goods, services and facilities in the wedding industry to discriminate against another person on the basis of their sexuality or their relationship status. It is a fact that for so long in society, marriage has clearly been between a male and a female and, as I said before, that has been the position for thousands of years.

It is interesting that Chief Justice John Roberts of the United States Supreme Court said in his judgement, according to my notes —

Although the majority randomly inserts the adjective 'two' in various places, it offers no reason at all why the two-person element of the core definition of marriage may be preserved while the man-woman element may not. Indeed ... a leap from opposite-sex marriage to same-sex marriage is much greater than one from a two-person union to plural unions, which have deep roots in some cultures around the world.

Justice Samuel Alito notes, according to my notes —

The [majority] decision will also ... be used to vilify Americans who are unwilling to ascent to the new orthodoxy ... Those who cling to old beliefs will be able to whisper their thoughts in the recesses of their homes, but if they repeat those views in public, they will risk being labeled as bigots and treated as such by governments, employers and schools.

That might sound far-fetched, but try living in Canada. Someone can stand in a public arena and say, "I believe that marriage should be between only a man and a woman" and those words can now be classified as a hate

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speech and people can be fined and can even go to jail simply for saying, without any malice in their voice, that is what they believe. It has happened; one person in Canada was fined \$7 000 for that. I urge the house to exercise great caution when considering this motion and the whole push for same-sex marriage. It is not just about two people loving each other; that has never been the definition of marriage. The issue of what this leads to also needs to be taken into account. That is absolutely critical. If we look around the world at the countries where same-sex marriage has been in place for any length of time, we see a massive erosion of religious freedom and freedom of speech and I believe, for that reason alone, if we value freedom, we should oppose this motion.

Furthermore, on the question of whether the Parliament should deal with this matter rather than having a plebiscite, if we are going to change something that is so fundamental to our society as the definition of marriage, every person in this country should be able to have their say on it—and if the majority decides in favour of it, that is the nature of democracy. But it is an issue that is foundational; in fact, I would see it as being even more foundational than changing our Constitution. To change our Constitution we need a majority of states to be in favour of it, but I would be happy to go with a plain plebiscite that would give the Parliament a clear indication of the wishes of the people.

MR C.J. BARNETT (Cottesloe — Premier) [5.21 pm]: I just want to make a few comments about this debate and, indeed, the motion that has been moved by the member for Maylands. I think it is quite appropriate that we have a debate or discussion in this Parliament about the issue of same-sex marriage; however, I think that the wording of the motion is not appropriate, and I will explain why.

First, this issue is for me and, I would think, most members of this house, a conscience issue. It is an issue on which members should be able to exercise a free vote. However, it is not an issue over which this Parliament has any jurisdiction at all. Clearly, and constitutionally, the commonwealth government has responsibility for the Marriage Act, and therefore for this issue, so I question what is trying to be achieved in this Parliament through this motion. To go back to the motion moved by the member for Maylands, that this house supports marriage equality, I find it interesting; I note that the language has changed from “same-sex marriage” to “marriage equality” in recent months; I guess that is another issue, but so be it.

Mrs M.H. Roberts: Do you understand why that is?

Mr C.J. BARNETT: Yes, I do, but I just make the point that the language has changed. I question why anyone in this Parliament, if they agree with me that this should be a free vote, would try to force members to declare a vote, either yes or no. That is contradictory to the very principle of a free vote because it means that the member is trying to pass a motion that this house supports the motion, and to extend that motion to, basically, a recommendation that the commonwealth government amend the Marriage Act to allow same-sex marriage, although the wording “marriage equality” is used.

I believe that most members—probably a strong majority of members—in this house would support a resolution, if we must have one, that this house call on the commonwealth government to have a free vote on the issue of same-sex marriage, because that is the only practical way forward. I think the wording of the motion moved by the member for Maylands somewhat contradicts and defeats the purpose I think she had. I just wanted to make a few comments about that.

This issue has been very much a public issue, particularly over the last six months or so, and particularly following the Irish vote, following a referendum there, in support of same-sex marriage. There has been a lot of debate amongst members of Parliament, particularly in the federal Parliament here, and an enormous amount of media commentary about it. The debates are probably led by those who are directly involved—who are gay and lesbian—and they certainly should be entitled to do so. But the various arguments can be looked at in one context. Some, particularly those amongst the gay and lesbian community and those who support this cause, will talk about the right of same-sex marriage and, more recently, have talked about marriage equality; that is certainly an argument. For other people, it will be a moral issue; there is no doubt about that. For other people, it will be a religious issue, according to whatever faith they may have. But I suspect that the vast majority of Australians actually do not really care. If they are not directly affected or they do not have a friend or a family member who might be gay or lesbian, it really is not an issue for them. I think there is a certain danger in that, and I will come back to that.

As far as I am concerned, I have always said that I support some sort of civil union, and I know that is not adequate for advocates of same-sex marriage, but that is the position I have taken, at least up to this point. But I do not want to be forced to vote, one way or the other, in this Parliament. I will express my view, as I have, and I will probably express it again, and I might even change it—who knows? If there is a referendum or plebiscite, it is my right to choose, at that moment, how I will vote. I do not want to be pushed into a position one way or

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the other through the wording of a motion that I do not think is appropriate for the Parliament of Western Australia.

It is a conscience issue, and I do not think anyone would disagree with that. We have had conscience issues in this Parliament before, like euthanasia in the upper house. I may be the only member in this chamber who was here when the abortion debate went through, moved by Liz Davenport.

Ms M.M. Quirk: Cheryl Davenport.

Mr C.J. BARNETT: Cheryl Davenport, sorry; Liz Davenport is a designer!

For those of us who were here, it was obviously a terribly emotional issue, particularly for women, and many women stood up and gave accounts of their own lives or families, and it was very moving. The Parliament became completely divided. I voted in favour of choice, if there is any confusion about that, but many did not, for whatever reasons they held. I did not find it a very edifying experience. I think the result, from my perspective, was the right one, but to see that sort of emotion and division in the Parliament was not, in a sense, a good scene.

Ms R. Saffioti: It had to be done.

Mr C.J. BARNETT: Well, the member was not here, and if she had seen people crying in the chamber, arguing, and being bitter, she would know that that was what happened.

Mr P. Papalia interjected.

Mr C.J. BARNETT: No, everyone has been listened to with some courtesy, except for me.

The point I make is how divisive an issue can become. Abortion was a more emotive issue than this, and it became very divisive. It split people and split friends; people aligned as to whether they were Catholic or not Catholic, and all sorts of other things. If this issue were to go to a referendum or a plebiscite, I think it would be very destructive. I think we would see some of the worst sides of Australian society, and I do not believe that should happen. I think we would see people marching in the street on either side of the debate, and we would see acrimony, personal insults, abuse and the like. I do not want to see this issue go to a referendum or, indeed, a plebiscite; they are much the same, but with different consequences. I am not dodging the issue, but I am very much of the view that this is the jurisdiction of the commonwealth Parliament and that it is an issue on which members of the commonwealth Parliament should vote as, I would strongly recommend, a free vote. They should accept their responsibility and deal with the issue, as this Parliament accepted its responsibility and dealt with the probably more difficult issue of abortion and choice. In that sense, I do not think what has been recommended as a motion here is the appropriate one.

In my view, that is how it should be decided, and I would suggest that the resolution from this Parliament, if there is to be one, should not simply be to support or oppose gay marriage; I do not think that is our role. I would not like to see a division on that and I would not like to see people being forced into declaring a side on an issue over which they are not going to have any more or less say than any other Australian person. I do not think it is the position of this Parliament to pass a point of view to the commonwealth Parliament. I think our position, which I hope the opposition agrees with, should simply be to call on the commonwealth Parliament to bring to a vote the issue of same-sex marriage, and to do so on the basis of a free vote for every man and woman in that Parliament.

If members opposite were to accept that resolution, I believe that they would have the unanimous support of this chamber: that would be a significant achievement. I have not counselled or talked to other members but I think everyone would accept that as a proper responsibility of the commonwealth and an appropriate measure from this Parliament that we could all support. If we do not go down that path and we head into a division, which is likely to happen, it is unfair for individual members of Parliament to be placed into that position whatever their view, whether they want to vote for or against same-sex marriage. I do not think that that is a fair and reasonable thing to do when we certainly do not have the jurisdiction on this matter, and I do not think this Parliament should be expressing a view on an issue like that. Members opposite will probably not accept that but that is what we on this side of the house are saying.

DR G.G. JACOBS (Eyre) [5.30 pm]: I love marriage and I love family, so much so that I am prepared to celebrate it and promote it. I am also prepared to defend it. I am opposed to broadening the definition of marriage to include same-sex couples. I did not want to be negative and antagonistic. I did not want to appear to be conservative or overconservative. I did not want to be seen as middle class or even believing that this institution of marriage that we have today is indeed women being subjugated or in a misogynistic institution. As the Premier elucidated, I did not really want to have this debate. However, I have a personal view and I believe a lot of my colleagues do, and they can be found on not only our side of politics, but also the opposition side of politics, for different reasons. I support the definition of marriage as stated in the 2004 amendment and

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incorporated into the Marriage Act 1961. Prior to 2004, the Marriage Act did not define marriage because it was historically and unquestionably understood as a union between a man and a woman. The 2004 amendment made the point perfectly clear and reads —

“marriage” means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

I love marriage and I love family. I do not want the member for Maylands to get this wrong. I like her and I love the right for us to talk in this debate and have different views. I love that freedom but it is quite wrong, if the member will excuse me, if a person thinks that to have a view about marriage is a desire to attack; it is not. It is a desire to defend. I believe that the moves afoot are really an assault on the millennia-old institution of marriage and I feel compelled to respond. It would be easy for me to lead a happy and peaceful life. I did not want to make a fuss, but sadly I find myself unable to be silent because of the demands here on the terminology of marriage. I will just outline to the house that the campaign, if you like, or the move or the push for same-sex marriage is relatively recent. I suggest to members that those people advocating for same-sex marriage previously had a fairly low view of marriage. They rejected it themselves. They chose to cohabit with multiple partners or live in a de facto relationship. Some have openly rejected marriage claiming it conservative and middle class, that it subjugates women and is a misogynistic institution, but all of a sudden there has been an advocacy for homosexual marriage now treating it as a new gold standard that they had previously no regard for and are now, if you like, championing it. I make that point because the ground has changed in that area and still there is a need to defend the traditional understanding of a marriage between a man and a woman.

I will reflect on some of the concerns in and around what the Premier talked about. I would like to read to members how this matter can affect people with different backgrounds, religious origins, whether they are protestant or Catholic, and belief systems, and whether they belong to a union or a non-union or whether they are over this side of the house or that side of the house. Although we defend the right for members to have this debate and hold this view, it is really important that all those views are aired and not seen as negative or as attacking but just being made in defence. There was a rally on the weekend, as the member for South Perth described. One person could not be there so he wrote a letter to the organisers that stated “Dear Fred” —

I am sorry I cannot be with you at the Rally on 20th September 2015 as I am on my way to a World Meeting of Families in Philadelphia, USA.

This was a rally for families like the one at Langley Park where children gathered for a celebration of marriage. The letter goes on —

I wish to add my voice to the great number of people who object to same sex unions usurping the name “marriage”. Let us stand firm on the clear biblical teaching that marriage is only between a man and a woman, faithful to each other, based on love and given the noble vocation of bringing children into the world.

To use this concept of name to describe other unions that are not complementary [and] not able to procreate is misguided and wrong.

Please God this rally will send a strong message to our lawmakers and to the Australian people that marriage has a special and irreplaceable role in society and should remain so for the good of present and future generations.

There is message in that letter for people in this place about how this matter affects us depending on our religious upbringing and beliefs. That letter was signed —

Yours Sincerely in Jesus Christ

Most Rev BJ Hickey

To be forced to vote on this issue, for the Catholics from either side of this chamber, needs consideration by us all, but particularly those members it touches; whether a member belongs to a conservative group, a free enterprise, a union group or a union-based political party. I will read another letter. The text of this letter was sent from Joe de Bruyn, national president of the Shop, Distributive and Allied Employees’ Association, representing over 215 000 members. The letter states —

“Although I cannot be with you today, I want to record my strong support for the Family based on marriage between a man and a woman as the fundamental building block of a healthy and stable society.

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The breakdown of marriages has grown rapidly ...

...

Our federal and state budgets are laden with expensive measures that try to compensate for the consequences of broken homes.

Now a further burden is to be imposed on our children—“same-sex” marriage!

This contemplates deliberately raising children without a father in the home, or without a mother!

The rights of a child to be raised by a father and a mother, preferably their natural parents, is trampled on by the same sex couple.

It is time to take a stand!

The Shop, Distributive and Allied Employees’ Association (the SDA), —

Just in case somebody was thinking that that was the Seventh-day Adventists —

the largest trade union in Australia with 215,000 members, supports the family based on marriage between a man and a woman because this is the best environment for children to be raised.

I wish your rally every success ...

As the Premier has mentioned in his very wise words, this covers an issue for us as individuals, and for that reason I think it should be an individual decision in making some recommendation to a body—not this Parliament—that has control over the commonwealth Marriage Act.

I just want to touch on the question of equality for children as we have talked about equality in marriage. As sure as night follows day, equality in marriage for same-sex couples will be followed by the equality and the right to have children. We know that at best the genetic pool will be only half in having a child. There is a need for a male and a female—a sperm and an egg—to make a child. To have a child from a same-sex relationship, we need either a donor or an egg from outside that relationship. Talking about equality, I will quote for members Heather Barwick, now married with a child, describing the heartache she endured being reared by two women of a same-sex couple. She states —

“I grew up surrounded by women who said they didn’t need or want a man. Yet, as a little girl, I so desperately wanted a daddy,” she said. “I ached every day for a dad ... another mum could never have replaced the father I lost.” Describing her feelings of loss, she said, “My father’s absence created a huge hole in me ... Same-sex marriage withholds either a mother or father from a child while telling him or her that it doesn’t matter. That it’s all the same. But it’s not.”

...

Instead of expressing sympathy for Heather, homosexual sympathisers and activists attacked her, claiming on one website that she “spit on her gay parents” because she used her personal experience to defend traditional family values.

I think it was the member for Southern River who elucidated that reverse discrimination concept. The member for Southern River also mentioned Katy Faust, who was also raised by a lesbian couple. She said —

“Our cultural narrative becomes one that tells children they have no right to the natural family structure or their biological parents, but that children simply exist for the satisfaction of adult desires.”

It is really important to defend traditional marriage and what it means under the definition. It is important that we have the debate and it is important that I am not considered negative, attacking or antagonistic. This debate was brought up in this place for discussion. I do not hate the member for Maylands; I love the member for Maylands and I love the right for her to bring this up and the right for us to express our opinions. I love marriage and I love family and I am not only prepared to celebrate it and promote it but also to defend it.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [5.46 pm]: Thank you, Mr Acting Speaker (Mr P. Abetz), for the opportunity to speak on this motion today. I understand there are a number of members who wish to speak, so I will be as brief as possible. The member for Bassendean wanted to speak on this but he has had to leave the chamber. He wanted to place on record his support for marriage equality and for the motion that has been brought to this place by the member for Maylands. I want to thank other members for their contributions today, and also to the Premier for what I thought was a proposal put in good faith to the mover of the motion. We will, however, resist the temptation to take on his suggestion in relation to the wording of the motion because we believe it is appropriate that this chamber takes a stand on particular issues and expresses a view, and today we wish to express a view on the issue of marriage equality. I want to add my voice in support

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of marriage equality. I do so on behalf of my electorate, on behalf of my many dear friends and their kids, and on behalf of my family. I do so as a true believer of the issue of the principle of equality. This motion is about a very simple principle of equality. It is about the unequivocal statement that we do not assign a lower value, or diminish the relationship between a loving couple simply because of their sexuality. It is a simple gesture by this place to put on record our view that we support marriage equality. We understand the jurisdictional issues and we understand that what we do here today, the eyes of the world are not upon us, but it is important that we all take the opportunity to express our view nevertheless.

Marriage has never been about a single thing. Throughout history, marriage has been a range of things depending upon the needs of the community at the time. I note the commentary from Stephanie Coontz, the author of *Marriage, A History: From Obedience to Intimacy, or How Love Conquered Marriage* in which she observes that marriage was initially about alliances between families. Marriage had nothing to do with the arrangements between a man and a woman; it was the decisions made by hierarchies of families about the relationships between those families. Obviously, marriage played a role in inheritance in relation to how a person's land was distributed, ultimately to "his"—particularly in those days—children and so on. Marriage was also about organising the workforce for farms. If extra workers could be brought onto a farm through marriage alliances, it would play a very important role, and obviously marriage played a role in making sure that the gene pool never got too shallow. The church came to the issue of marriage between the sixth and ninth centuries, when it took a view on the issue of monogamy. Of course, prior to that, marriage in a whole range of different cultures represented a whole different range of things. About 250 years ago, marriage took on the component of love; it was an issue between a man and woman who loved each other and it was appropriate that they marry. In the last 50 years, we have seen the emergence of the idea of equality in marriage—that is, the equality of obligation, responsibility and rights within that relationship. The Leader of the Opposition detailed the range of legislation that has been passed in this place to institutionalise that equality in the process of marriage. I remind members that it was not until the 1970s that the issue of marital rape came onto the statute book in the United States. The concept of equality becoming part of the bond of marriage is a fairly recent phenomenon, but now we accept it as a fundamental dimension of the institution of marriage. Marriage is now about equality between two partners who undertake the process of becoming married. Within that scope of logic, it is only reasonable in recognising that marriage is an equal relationship between two people; it is not necessarily a relationship between a man and a woman, but a process by which two people can enter into a loving bond that is acknowledged by the rest of the community.

I note that the commonwealth government has said it wants to bring about a plebiscite on the issue of marriage equality, and can I just say that that is an abrogation of our responsibility as policy leaders in this country. If the commonwealth Parliament cannot form a view about this, it is diminishing the institution of the commonwealth Parliament significantly, and I acknowledge the comments of the Premier in relation to that and agree with him wholeheartedly. We are not asking our commonwealth parliamentarians to take a position of extreme leadership or to create precedent. The world has already embraced the issue of marriage equality and, in fact, we will not be leading in this policy debate; we will be following many other countries that we have traditionally led in terms of social reforms of this kind. Twenty countries have already institutionalised same-sex marriage, including the United Kingdom, Canada, the USA, South Africa, New Zealand, Argentina and Brazil. It is not as though we are out of step with national or international thinking in relation to this issue. This is not a bold step, as the Premier acknowledged. It is not as though the community is sitting with bated breath waiting for us to make a decision. I think in large part the public debate has already moved on. The original position of my colleague the member for Brand, Hon Gary Gray, was that he did not support marriage equality. In his defence, he then went about his own plebiscite, I guess, and put the question out there to his community. Such was the overwhelming response to his office of people asking him to support marriage equality that he has now embraced that position. As the Premier acknowledges, the debate is over out there in the public domain. People want us to move forward and, as the member for Armadale observes, the sun will come up after marriage equality is brought into law.

Marriage equality is just that: it is about equality. It is not equality on other people's terms; it is equality upon the terms that people wish to assign to themselves. As someone who was committed to supporting issues and values of equality when I came to this place, I stand quite proudly to support this motion. I asked a member of my family, "You've got a bit of a skin in the game on this particular issue; what would you want me to say if I was in this place?" He told me to get on with it and to stop using the institution of marriage to discriminate or oppress this young man about the life decisions he wants to make and the institution he wants his relationship to embrace. It is true, as the member for Eyre observed, that the institution of marriage was rejected by many same-sex couples for a very long time because in those days it was not an institution of equality. However, the institution of marriage has changed over the years. It has changed in our lifetime, it has changed over the last 250 years and it should change again to reflect the prevailing attitudes of people in our community.

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I think people accept that there is no reason that people who wish to be bonded in marriage should not be so. For that reason I support this motion. I think the motion that the member for Maylands has moved is very important. It allows us in this place to take a stand and demonstrate to the public that we are in accord with public opinion on this issue, and that we, as part of Australian society, as members of Parliament assembled, wish the commonwealth Parliament to get on with this particular social reform. As I said, this is not frontier stuff; this is not difficult stuff; this is not controversial stuff. This is stuff that we simply have to get on with, because if we accept the principle of equality and that people should have equality before the law and we should not discriminate against people on the basis of their sexuality, this is a no-brainer. I very proudly stand here today to say I support this motion.

MS J.M. FREEMAN (Mirrabooka) [5.57 pm]: I support the motion —

That this house supports marriage equality and calls on the Parliament of the Commonwealth of Australia to amend the commonwealth Marriage Act 1961 to provide for marriage equality.

In the nineteenth century when a judge ruled that a husband could not imprison his wife, *The Times*, the newspaper of the time, bemoaned, “One fine morning last month marriage in England was suddenly abolished.” In 1849, Captain Irwin, a pioneering colonialist in Western Australia sent for 50 female servants to marry the men of the WA colony, but when that did not meet demand, the colonial government considered the following —

Shall we order another 50 girls or do you think we had better wait & see how these go off. I don't think there would be much fear of glutting the market if we sent for 50 more.

In 1935, the “half-caste women of Broome” petitioned the WA Parliament declaring —

Sometimes we have the chance to marry a man of our own choice ... therefore we ask for our Freedom so that when the chance comes along we can rule our lives and make ourselves true and good citizens.

On 13 August 1959, in the course of debating Australia’s first Marriage Act, the Menzies government, noting Gladys Namagu was denied permission to marry her white fiancé by the Protector of Aborigines, promised discrimination would never be written into Australian marriage law. In 2004, the government under Prime Minister Howard amended the 1961 Marriage Act to make marriage a union between a man and woman to the exclusion of all others.

Change in what marriage entails is not new. Marriage is not a static thing; it has always shifted to reflect contemporary society and the status of individuals in the community. As the book *Love and Romance in Britain 1918–1970* edited by Alana Harris and Timothy Jones illustrates, expectations of marriages based on mutual affection and romance did not become commonplace until the middle of the twentieth century. In fact, prior to that, in the early seventeenth century, people had to get the permission of the lord of the manor to be able to marry. As Cicely Hamilton argued in 1909 in *Marriage as a Trade*, marriage was compulsory for women as no other decent jobs were on offer. Indeed, previous marriage laws ensured wives could be controlled by their husbands. Do members know that the saying “rule of thumb” comes from the English common law that established that a man could legally beat his wife with a switch no thicker than his thumb? Clearly, marriage does not now bestow the right of ownership of the sexual, physical, material or mental resources of a man’s wife or partner, as it previously did. Marriage was about property laws. Marriage is not about that any longer; it is now about a union. As Ajahn Brahm, spiritual director of the Buddhist Society of Western Australia and Abbot of the Bodhinyana Monastery, said so beautifully in a submission to the Standing Committee on Social Policy and Legal Affairs’ inquiry into the Marriage Equality Amendment Bill 2012 and the Marriage Amendment Bill 2012 —

Marriage is that ceremony that formally expresses, in front of family and friends, that unique leap into vulnerability and trust called adult love.

Ajahn Brahm also stated that “marriage was not always a religious ceremony.” Indeed, in an article on The Conversation website on 29 July 2015, Timothy Jones—I have quoted previously from his book; he is a research fellow at La Trobe University—stated —

Marriage’s essence is the promise that two people make to each other in entering a relationship. This is the case even in “Christian marriage”. As historian John Gillis demonstrated:

Church and state ceremonies are relatively recent additions, which have been grafted onto older popular rites whose legitimacy was dependent on no written law.

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Over time, churches took on the administration of marriages. But this was for a relatively short period. In the UK, for example, the church had sole jurisdiction over marriage only between 1753 and 1837.

Philip Freier, Anglican Archbishop of Melbourne and Primate of Australia, wrote in *The Age* on 6 July 2015, when considering why the church and celebrants have become administrators of legal processes —

It might be time to make sanctioning legal marriage a matter purely for the state.

To be carried out by public servants. He continued that church weddings could be —

... separate celebrations from the state-sanctioned legal approval.

He concluded by stating that the separation of state function from the church —

... just might strengthen the intention of those who look to marriage as a further and more complete step in their relationship.

Hindu Council of Australia president, Nihal Agar, said —

... while his organisation had supported the traditional view, that marriage was between a man and a woman, “we also support freedom”.

Two years ago, after extensive consultation, the organisation decided that “if it comes to voting, we would support same-sex marriage” because “there is nothing in our scripture, either positive or negative, about it, there is no mention of it”.

I do acknowledge that there is uncertainty in parts of the community, and it is my belief that the mistruths regarding marriage equality should not descend into a campaign of fear perpetuated by those who oppose marriage equality and fairness. In fact, just recently I received a letter from a constituent that asked whether, if we do not allow same-sex marriage and same sex-couples are not allowed the same rights as heterosexual couples, should same-sex couples should have to pay taxes if they cannot be completely included in the community? Recently, when talking to a Somalian friend and supporter about the question of marriage equality and same-sex marriage, I explained to her that it was my strong belief that it was about equality. She could embrace that response. For her, equality is the centre of why she chose to live in Australia—to be equal without fear of repression and discrimination because of her beliefs. The majority of Australians do not believe in inequality on the basis of race or gender, and should not do so on the basis of sexual preference.

Ed Husic, member for Chifley and Australia’s first Muslim member of Parliament, supports marriage equality. In *The Sydney Morning Herald* of 5 May 2015 he stated —

“Ultimately, government should be about empowering people to pursue the things important to them in their lives.

Ultimately, that is what we, as MPs, are elected for—not for a plebiscite, but to make decisions.

In conclusion, I have heard this afternoon that a child raised in a traditional marriage is a child of great fortune and does so much better than a child raised in a home without marriage. I chose not to marry my partner. We have been together 24 years and raised an extraordinarily healthy and talented 19-year-old son who is studying at the Western Australian Academy of Performing Arts. We did that because, frankly, we bought a house together that needed a new roof, and it seemed far more logical to buy a new roof than to pay a lot of money for a marriage—and I do not look good in a white dress! I often say to my family that I am not the best person to give presents to, and they say that that is for sure, and so they were all pleased. I did not get married not because I have some confused view about marriage, but because I have a choice. I have a choice as a woman. That choice was not always there for women. My mother worked in the Postmaster-General’s Department, and when she married she had to quit work. So, it is about choice and equality. I think marriage has ultimately changed; marriage was about taking the property rights of women. It was about a man having the capacity to force his wife into her sexual obligations. It was about being able to make sure that a wife, obviously, could not own property, and that the husband could compel her to act in a way that he saw fit. That is what marriage was when it was set in law.

I understand that Christianity says that marriage is this thing that is seen under God. I am not a person of faith and I do not understand faith, but I understand that. But that does not mean that Christianity gets to decide what marriage means, because the definition of marriage has changed over the years. Because we live in a democracy, we can have these debates during which Christians can say that marriages are under God and are only for certain people. It is not like having or not having a law degree and not having a law degree and not meaning to be a lawyer. It is about an actual choice and equality, and a basic human right to live in a society in which everyone has the equal right to all legal provisions in our state, and one of those is marriage.

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Let us celebrate people; let us not denigrate people. Let us make the choice as MPs that what we want is a society that embraces people. I can tell members that the people I represent in the seat of Mirrabooka come from a vast array of different backgrounds and have a vast array of different views, but when I say to them that this is about equality, they can understand that because they have come to Australia for that equality. Many of them have fled places where they have been persecuted and discriminated against because of their religious beliefs. All these things are absolutely at the core of who we are as Australians. It is core to when we stopped saying that the Protector of Aborigines could say which Aboriginal person could marry a white Australian. We need to move on and let marriage be what it is. As Ajahn Brahm wrote so well —

Marriage is that ceremony that formally expresses, in front of family and friends, that unique leap into vulnerability and trust called adult love.

DR K.D. HAMES (Dawesville — Minister for Health) [6.09 pm]: I am pleased to have the opportunity to be involved in this debate. I have been married for 37 years—I am just working it out to make sure I have got it right; we were married in 1977. I have a background of being brought up through various religious institutions—the Church of Christ and the Church of England, and my wife is Catholic, so I had to agree to have the children raised as Catholic. I also draw on my background of representing an electorate that has a component of people who would think along the lines of the member for Southern River, and I have followed that direction and belief for most of my life. The other day something came up. I have a 20-odd-year-old daughter who is studying science. I put that point of view to her when the debate came up, and she said, “Why? What do you care? What difference does it make to you whether gay people get married or not?” I thought about that. I do not know, really. I guess it does not make any difference to me. It is not something I felt strongly about. I just had that general feeling and I probably went along with it all my life because I was never challenged on it and never forced to form a point of view. As the Premier said when we had that debate on choice, we were certainly forced to form a point of view. I was part of that debate. In fact, Diana Warnock and I led the group from our side—Diana Warnock was pro-choice—and I think Michelle Roberts and Paul Omodei led the alternative view in this house. We had the numbers and won it. I still support pro-choice, but a vindictive campaign was run against me in my electorate with the Right to Life group putting out pamphlets around my electorate saying, “Kim Hames kills babies”. It was an extraordinarily vindictive campaign, but I still believe I made the right choice. Now we get to this debate, and I am glad I do not have to make the choice and go through that again.

I have been talking to people and thinking about what I would do if I had to make a choice. I was recently in Bali at a wedding for my godson and his now wife; we were overlooking the ocean in Bali. At that wedding was the bride’s brother, who was gay, and her brother’s boyfriend, who I know very well from Perth. They were partners. Would I be offended if it was their wedding I was attending? The answer is no. I would be equally happy for them to have that relationship. I probably have more issues with gay men, in particular, having children; that does not sit comfortably with me, but it does not have to. At the end of the day that is the choice of people other than me. I heard the argument from the member for Southern River about how the children feel. The issue was brought home to me again with two female patients who have children. Both women came from abusive relationships where their husbands were alcoholic and physically and verbally abusive of those women, but they parted and went their separate ways. They joined together in a lesbian relationship bringing up, I think, six children out in the Morley area. They were great parents, the two of them. They were far better off with each other than they were with the men that they had been with, and those children were better off being in a home where there was love rather than a home with alcoholism and violence.

I have to say that I have changed my view over time. Certainly, there will be people in my electorate who would not be happy with me having the view that if I had a free vote I would probably support the concept. I am glad I do not have to vote; this is an issue that the commonwealth has to sort out. Like the Premier, I am concerned about the decision to have a plebiscite across the state, because I have seen in the right to life debate, the pro-choice debate, the vindictive behaviour that people with extremely strong points of view can have on both sides of the argument—not just from one side. There would be acrimony, vindictiveness, intensive campaigns and pressure brought to bear on people making that choice. At the end of the day, all of us are elected to Parliament. We represent the views of our electorate, but as individuals we represent our own points of view. I hope that between us all there is a collective view that represents a similar view to that of the will of the state. It is too hard to go out to try to find out what your whole electorate thinks about an issue without those huge pressures being brought to bear. We saw that in the pro-choice debate—or abortion debate as some people would call it. It was a fair reflection of the community. It was not divided along Liberal or Labor lines; it was totally split across the system and, at the end of the day, it broadly reflected the views of the people of Western Australia at that time, and I think currently. I think those members of federal Parliament need to toughen up. They put off having a free vote, and the Parliament having a say. It is tough, it is hard and they will lose friends. They will lose supporters for whatever decision they make. In Parliament we cannot hide how we vote, unlike a lot of other votes where

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members can hide by writing down their vote, as we have in our party room, so that our colleagues cannot see who we vote for. Members opposite have show-and-tell, but we do not.

Dr A.D. Buti: No.

Dr K.D. HAMES: The Labor Party does not have show-and-tell?

Dr A.D. Buti: I don't!

Dr K.D. HAMES: That is because the member for Armadale is non-factional. All the factions have to show their mates they are not shafting the point of view of the group they represent. Members can hide with a secret vote and nobody knows what or who they are voting for, but in the Parliament, the vote is out there and members' constituents know exactly how they vote. If they do not like it, they can change their member at the next election. It is tough; it is hard. Members have to make a choice that they think is right and that represents the views of constituents, but they will always have some people who will not like that point of view. I had that in my electorate. After that pro-choice vote, I lost the next election. I have no idea whether or not it related to that, but there were campaigns against me by Right to Life in that election. There were a lot of other issues that more determined the outcome. People in my electorate of Dawesville know how I voted, and those who disagreed have forgiven me for that point of view, and accepted that is my point of view because they see me helping and supporting them in so many other ways. I think members will find that is what will happen. They need to get in there and have a vote, put their colours on the table and be judged at the end of the day. The decision by the federal government to hold a plebiscite is not the correct direction. I am being somewhat hypocritical because members in this place are saying that it is not our decision, it is for our federal colleagues, but this is what we think they should do! I have just been given a proposed amendment and I will pause and read what it says. It says that the government's amendment seems to say pretty much the same thing as the opposition's amendment. I will get someone to check that.

Members on our side of the house have formed a point of view on this and, in effect, we will have a free vote because there has been no party room discussion, no one has lobbied anyone on our side and, quite clearly, members on our side have different points of view, so it will be up to every member on our side to make that decision on whether or not they support this motion. The motion is open enough to allow others who are opposed to gay marriage and those members in the chamber who are opposed to equality in marriage, as the opposition is labelling it, to still support the motion. Members will have to read this amendment and see what they think. I gathered before that we were not going to have a vote, but now we may well do and members can make their own decision on whether or not they support the motion.

Amendment to Motion

MRS M.H. ROBERTS (Midland) [6.19 pm]: I move —

To delete all words after "That this" and substitute —

Western Australian Legislative Assembly calls on the federal government to abandon the proposed plebiscite on marriage equality and urgently calls on all members of the federal Parliament to have a free vote on a bill to amend the Marriage Act 1961, to provide for marriage equality.

In moving this amendment, I thank members opposite, particularly the member for Dawesville, for the discussions we have had. I acknowledge also the Premier's comments earlier in this debate. In moving that amendment, I make the point that I am moving it on behalf of the member for Maylands. On an issue such as this, I think there is a lot of commonality of view and that it is better if we can broadly get agreement in the Legislative Assembly tonight and form a position. As the Premier explained, the Marriage Act is a federal act of Parliament. It is an issue appropriately dealt with by the federal Parliament. The Premier drew an analogy between this issue and abortion legislation in this state, which he said was properly dealt with in this house by way of free vote. He suggested that that should occur in the federal Parliament. Although it was obvious that there was some significant opposition to the more fulsome support of the marriage equality motion, which the member for Maylands moved, it seems that with this proposed amendment we should have something that I hope the vast majority of members of this house will support.

A plebiscite is certainly not the way to go. It would be a very costly and time-consuming exercise. I am of the very firm belief that members of the federal Parliament should step up to the plate and deal with this issue once and for all. Sometimes in politics we need to make hard decisions; sometimes in politics we need to take a stand. Members of the federal Parliament need to get on and do that. I am very pleased to have moved this amendment to the motion on behalf of the member for Maylands. I think her motion certainly progresses the issue. If passed, it would send a very strong message to the federal government that there is an expectation of very reasonable

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people here in the Western Australian Legislative Assembly that a vote should be taken, and a plebiscite is a clumsy and expensive way to go forward and the time has come for the federal Parliament to vote. It should be a free vote and members of the federal Parliament should not be restricted in how they exercise that free vote.

I thank the government members who have said they would like to support an amendment such as this. I look forward to the Premier and others supporting this amendment. It fits exactly in accord with what the Premier said he would be prepared to support. The Premier put on record tonight that he does not support the plebiscite and he believes that the federal government should progress the issue and hold a free vote. On behalf of the member for Maylands, I certainly have much pleasure in putting this amendment on record. I also pay tribute to the member for Maylands for bringing the issue forward. This is an important issue. Some people may find it difficult but, as members of Parliament, I do not think we can shy away from difficult issues, nor do I think members of the federal Parliament should shy away from these issues. The time has come. I look forward to as many members of the Legislative Assembly who feel able to, supporting this amendment tonight.

MR B.S. WYATT (Victoria Park) [6.24 pm]: I am aware that the hour is somewhat late so I will be brief in my comments to the amendment. I will make my comments to the motion as well because I will not get up twice to speak to this issue. I firstly thank the member for Maylands and, indeed, her partner, Kathleen, whom I have known since I was first elected to the Parliament. I support the motion as amended. The member for Midland outlined the amendment, and I understand from the Deputy Premier's comments, it has, hopefully, the government's agreement.

I will make a couple of comments in support of the motion. I note from pretty much everyone's comments that they basically reject the idea of a plebiscite. I think only a small group of people in elected office support a plebiscite. If every MP were honest and able to give their views, they would not want a plebiscite, certainly not at the federal level on both sides of the house. I think the Premier is right. We often have these discussions in Parliament but the population has moved well ahead and we find ourselves having discussions around issues that we think are controversial but on which, ultimately, the vast majority of the population has made a decision, whether, as the Premier suggested, it does not impact on them and they do not care or whether they oppose it. I understand why people oppose amending the definition of marriage. I have heard the arguments and I respect those arguments. Similarly, the words of the member for Maylands and the Leader of the Opposition are echoing in my ear for why we should indeed give a bit of help along to the federal Parliament to make a decision about this. I have a sneaking suspicion it will be something like the apology. The apology to the stolen generations was a great period of angst. The then federal government was reluctant to deal with it. By the time the apology was actually made, it was like, "Well, so what?" The population had moved on in that it had accepted that. As the member for Armadale pointed out, the sun still came up. It was not something that caused the controversy that some thought would occur.

I will quickly read in an email that I said I would read in the Parliament. It is an email I received from a constituent in the middle of August. I asked her if I could read in her email. She said yes but I am not entirely sure that I got permission to reveal her entire name, so I will refer to my constituent as Paula. I will quickly read it in because I think it makes the argument more than anything I can say. Her email states —

Dear Ben

...

I have recently retired as a specialist Clinical Psychologist in WA. I established and was the Director of the Centre for Clinical Interventions in Perth. It is a specialist mental health service for people with complex mental health problems.

I was humbled to have received the most prestigious national award for my lifetime career in psychology from the Australian Psychological Society ... The Ian Campbell Prize in Clinical Psychology in 2012. This Prize is awarded annually to an APS member who has made an outstanding contribution to the scientific or professional status of clinical psychology in Australia. I have received similar national recognition from the Australian Clinical Psychology Association "In recognition of her outstanding leadership in Clinical Psychology"... I say this only to indicate that my achievements in public service are nationally recognised but my own country treats me like a second class citizen and does not allow me the same recognition and rights which I would automatically be accorded if I was not gay.

I have a partner of over 32 years, Yvonne ... who has a long and distinguished career in WA government. We both have careers dedicated to public service and the community of Western Australia yet our own country, the country we have served, discriminates against us.

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I have two boys now in their 40's who are both married with two children each. We have a loving relationship with our 4 grandchildren who believe we are married like their parents. They and the children of other friends sometimes have looked at pictures of us and ask ... 'is that your wedding picture?' How do we answer them. That our own country treats us as less than others? My children had the choice for marriage ... we do not. We recently celebrated friends marriage at the U.K consulate in Perth and travelled to NZ last year for the wedding of other gay friends. Their love and commitment to each other was celebrated by family and friends. They stepped back onto Australian soil and now their marriage counts for nothing!

With my experience in mental health I know just how important respect and support and rejection of discrimination is for people struggling with their sexual identity. You know the suicide rate for gay young people is high. I shudder to think of the negative effects of this abrogation of responsibility from the PM last night will have on insecure gay people. We feel extreme anger. This federal government's decision says one thing and one thing only ... we don't count in this so called 'Team Australia'.

Marriage was not something we had much thought about in past years. Legal changes had improved our feelings of security. However when the marriage equality advocacy started and we experienced the rejection of this ... for various reasons of course ... but always with the same effect ... you don't matter, you are less than us ... we reject you. We now realise how much some groups in the community and the political community reject us and seek to marginalise us. It's been extremely confronting. So we stand firmly in support of marriage equality.

You and your colleagues must realise that this puts Australia in the dark ages. It's not just embarrassing but completely appalling. It's an abrogation of all human compassion and decency. The PM dangles a carrot of other processes that merely puts off the decision to end discrimination. This is not a new political ploy. We women experienced these same delaying tactics when we wanted the right to vote.

I do urge you to continue the fight for full citizenship for gay partners.

Thanks again for your question and response. I wish you well.

It is signed at the bottom by Paula. I think that says it all.

I want to make a couple of points. I note that there was some reference earlier to the Yirrkala bark petition and another petition that came before the federal Parliament recently. They were very different because the Yirrkala bark petition was accepted by the federal Parliament, and that was a significant part of the land rights struggle, whereas the most recent bark petition purported to represent—I noted the words—the Aboriginal people of Australia. It often frustrates me to see, in the media and elsewhere, that there is sometimes a general view that there is a generic Aboriginal position on something. There is no such thing as "the Aboriginal position" on anything; there is, as in any other community, a wide variety of opinions in the Aboriginal community. A number of Aboriginal leaders came out to reject that petition because, ultimately, some Aboriginal people oppose gay marriage and some support it. That is the reality of the community in which we live.

Similarly, there are lessons from history with the stolen generation. My father's lesson as a member of the stolen generation was, interestingly enough, that it perhaps had a libertarian impact on him. He held the very firm view that government has no business expressing moral decisions about people and the lives they lead; rather, it should stay out of the way as much as it can and not simply have a moral view about things. I think—I know—he would share my views on marriage equality.

As a final point, I was raised —

The ACTING SPEAKER (Mr N.W. Morton): Members, a number of conversations are happening around the chamber, which is making it difficult for me to hear the member and also for Hansard. If you want to have conversations, take them outside, please.

Mr B.S. WYATT: I was raised a Catholic and I still am a Catholic; I went through the Catholic education system, and I know the Catholic Church's position on this issue. It is not dissimilar, if you like, to the fact that the Catholic Church will not marry someone who has been married before and divorced, unless, I think, the marriage has been annulled.

Dr M.D. Nahan: That's changed.

Mr B.S. WYATT: It has changed, has it? I have known a number of people who have not been able to get married in the Catholic Church because they have been married previously, and as a Catholic I would like to think that that is something that the church could move on from, but ultimately I respect that position, and that is my point: I respect the position of those people who, for religious reasons, cannot support the amendment to change the definition of marriage. I certainly do not accuse them of bigotry and there is certainly no suggestion that ceremonies

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will be forced upon those religious institutions. Put quite simply, every human being, whether gay or straight, is a flawed individual. Straight people can bring up terrible kids, or bring up wonderful kids. We divorce, we separate, and it is the same with the gay and lesbian community. There is no suggestion that one element of the community is genetically predisposed to not settling in long-term relationships, and the email I read out a minute ago from Paula makes that point. We are all human beings with our own weaknesses and foibles and I think if we can ultimately amend the definition of marriage to include gay and lesbian people, it can only strengthen marriage, in my view, because ultimately we will be allowing the opportunity for people to take on a definition which has been on our statute books for only 54 or 55 years but which has been developed over millennia, as the member for Eyre pointed out, and I cannot see how that can be anything other than a good thing.

Amendment on the Amendment

DR K.D. HAMES (Dawesville — Deputy Premier) [6.33 pm]: I will be really quick as I will speak only to the amendment. I will move an amendment to the amendment, and it is somewhat pedantic, I must admit. I move —

To amend the amendment moved by the member for Midland to delete from the words to be inserted the words “to provide for” and substitute —

“regarding”.

The only reason I do that is when some members of the house read the bill, they may have the view that we are not only supporting a free vote on the bill, but also the provision of marriage equality.

Mrs M.H. Roberts: I understand your point and we accept that amendment.

Dr K.D. HAMES: Yes, I understand that. That is why I will sit down very quickly. I want to make it clear for those in the house that the choice now is clear. We are saying that this matter is a federal responsibility and we believe that there should be a free vote in the house. If members support a plebiscite, they will not support this motion. This does not mean that they will be voting for or against support for equality of marriage.

DR M.D. NAHAN (Riverton — Treasurer) [6.35 pm]: First, I would like to make some personal comments on the motion and then some comments about the amendments and the process we are going through. As with many people here, I grew up in a very conservative Catholic background and, I might be honest, a background in a farming community that was quite homophobic—I think that is the word—over the years, although I did not think too much about same-sex relationships through my early life. But as time goes by, the world becomes more complex and we see, I think, that the maker of life was a wild genius; he created huge diversity in people’s behaviour. My in-built inclination is to say that marriage is between a heterosexual man and woman, but as time goes by I have come to the view, very strongly I think, that we should, as in most aspects of life, show tolerance, respect people’s differences and respect the need and desire of people to form publicly a relationship—call it marriage—between someone of the same sex.

I know that the Catholic Church has a ruling, as the member for Victoria Park indicated, and I recognise those edicts, if you wish. I have a number of problems with some of the edicts of the Catholic Church but I think society should accept same-sex marriage. The only caveat—I do not want to steal my colleague’s thunder—is that the changes should not impose or force onto religions, whether it be Catholic, Muslim or whatever, the need to recognise same-sex marriage if they wish not to. I do not know why, but I do not believe this issue is popular in my electorate. It is amongst the young ones, but my guess is that the electorate would be 60–40 against. My guess is that it is not the highest priority of the electorate. I have thought about it and have talked with my colleagues about whether I should get up and say something. It is not the biggest issue but I think it is necessary to say that we as leaders of the community need to accept the diversity in life, the freedom of people to choose their associations and also the need to achieve the public acknowledgement of a relationship. I have therefore come to support same-sex marriage. As to the issue in front of us in the motion, I try to limit my preferences to dictate to the commonwealth because I do not like the commonwealth trying to impose them on me or on the state. Nonetheless, for going forward it would be better for all if the commonwealth changed its policy and indeed went to a decision in Parliament. It would be the sensible thing to do, particularly since there has been a change in leader. It would be the best way to go about it, so I support the amendment. I support the commonwealth making a decision, if it ever asks me, to legalise same-sex marriage.

MR J.M. FRANCIS (Jandakot — Minister for Emergency Services) [6.39 pm]: Thank you, Madam Acting Speaker.

The ACTING SPEAKER (Mr N.W. Morton): It is Mr Acting Speaker.

Mr J.M. FRANCIS: Sorry, Mr Acting Speaker! That was actually a mistake, sorry—how uncomfortable! I want to make a few points. I will say from the outset that I have utmost respect for the member for Maylands. I have

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the utmost respect for a number of my very dear, personal, close friends who are gay. I have seen society change over the decades. I know that a few people here have seen the Australian Defence Force change significantly its attitude towards gay people in the Australian armed forces, and I think it has been a very healthy thing. I do not think we should exclude anyone from reaching their potential, whether it be in a uniform or any other endeavour in human life, because of their choices of sexuality, whether they made them at a very early stage or a very late stage. The Australian Defence Force is a much better place for it. I can go back to when I first went to sea in the early 1990s on destroyers—I will not tell any of these stories—but certainly with a 330 all-male crew on a Charles F. Adams-class destroyer, if a person had been identified by a crew member as being homosexual, I can tell members, that that person's life would have been a living hell. The Navy went through the New Generation Navy program; it went through an entire process of reforming attitudes amongst the old school and the new school. I expect the member for Warnbro would know exactly what I am saying here. The Navy is now a much better organisation because of the change in its culture. It is not just the Defence Force; it is all out there. I guess what I am saying is that society's view is changing and I accept that. As a Catholic, I went to a Jesuit school in Sydney. The Jesuits probably threw a bit of their doctrine down my throat and to a degree I probably rebelled against it at an early age, which is probably initially why I ended up on this side of politics, to be honest. Noting that, the Pope is our first Jesuit Pope. Pope Francis actually became the Pope the day I became a minister.

Dr A.D. Buti interjected.

Mr J.M. FRANCIS: A lot of people have a lot of things to say against Pope Francis at the moment, but he did come out and decree that dogs have souls and therefore go to heaven, so he gets a big tick from me on that one!

On a serious note, as much as I am not very good, I like to consider myself a decent kind of Catholic, as far as trying to let my God guide my decision-making process. I have always endeavoured not to let my religion sit on my sleeve when I walk into this house. Interestingly, we still say—I think it is a good thing—the Lord's Prayer when we start Parliament every day. It is an appropriate reminder every single day the Parliament sits as to how our moral compass should be guided regardless of the fact that a number of members of Parliament do not practice any religion or a Christian religion.

Mrs M.H. Roberts: We are trying to get this to a vote before seven o'clock. Despite the fact that the minister has made some good remarks, a couple of people want to have a say.

Mr J.M. FRANCIS: I thank the member, but I am getting somewhere with this. This comes down to, firstly, the issue of a plebiscite that the current federal government is looking at holding after the next election. John Howard used to make comments about whether governments are elected to make decisions or to just take what he referred to as the soft option of sending them off to plebiscites.

The ACTING SPEAKER: Order, members! I have warned you a few times now. Conversations are happening. If you want to have a conversation, the doors are on both sides of the chamber. I am trying to listen to the member for Jandakot.

Mr J.M. FRANCIS: We as a state Parliament have referred some issues off to a plebiscite that have been, to a large degree, of less significance but equally as divisive in the community, such as the issue of shopping hours back in 2005, I think it was. We put daylight saving to a plebiscite. I am an advocate for daylight saving, as everyone knows. Alannah MacTiernan and a few other people agreed with me on this issue. I also appreciate that daylight saving was an incredibly divisive issue out there in the community. I do not know how strong their marriage was, but I know a couple in my electorate who got divorced over the issue of daylight saving. I do not know whether they would still have been married if they had not disagreed on daylight saving.

Several members interjected.

Mr J.M. FRANCIS: It is a true story.

We make decisions to send these issues to a plebiscite. Anyone who is on social media would know that after the US Supreme Court changed its mind on gay marriage a few months ago, there was a trend in which everyone changed their profile picture on Facebook to be overlaid with a rainbow. To be honest, I was quite amazed how many of my friends changed their profile picture. I did not change mine; I did not think I had the need to, but certainly a number of people did. I was quite amazed to see it.

Having said that, and taking my religious beliefs out of it, I will quickly say what I think the future will hold and where the crystal ball will guide us. If we accept—I am not saying that we necessarily will—that this is something that will come about, as the Treasurer pointed out, we need to put checks and balances in place to protect people's personal beliefs. For example, if we are standing in this place today saying that it is not the role of the state to govern personal choices and embroil itself in the battle of choices concerning sexuality, surely if

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one is such a libertarian that they believe that, they should also accept that it is not the role of gay couples to then force their beliefs onto other institutions. A significant number of countries in the European Union have changed their position on this. The situation today is that Catholic priests have resigned their right to be marriage celebrants because they do not want to be taken to court for discrimination. I am not saying this because I am Catholic; I am saying this regardless of any religious institution. It has happened in a number of countries, including in the Czech Republic, I think, where my fiancée is from. We all know about the Irish bakery; I guess, to a degree, someone else's beliefs were forced upon it. It should also have had the right to refuse. I would suggest that if this goes ahead, the future should probably also include the protection of religious institutions over their right to say no. I would hate to see the courts open to all this discrimination litigation. If the Catholic Church wants to say, "Go and have whatever version of a civil union you want", it should have the right to say, "Not in our church", as should any other religious institution.

Ms L.L. Baker interjected.

Mr J.M. FRANCIS: The problem is that it has gone that far in Europe. Celebrants have resigned their right because they do not want to be forced to do something that is against their particular religious beliefs. I am just throwing it out there that if it is okay for state Parliament to put to a plebiscite issues such as trading hours and daylight saving, hopefully such a divisive issue as this will end up uniting the community for good reasons, and I suspect the federal Parliament has made the right call.

MR A.P. JACOB (Ocean Reef — Minister for Environment) [6.48 pm]: I will try to be brief. I acknowledge the member for Maylands as the mover of the motion. Despite being on the other side of this chamber, I have a very high regard for her and, as much as we can across this chamber, we have a very strong, positive relationship.

I often get asked—I imagine it is probably common for many other members in this chamber—whether I would ever consider running for federal Parliament. My personal answer is usually an emphatic no. That is because of the policy positions that most engage me personally and, indeed, the policy positions that I believe most directly affect the daily lives of my constituents in the way that we as a government can make a difference for them—largely, state policy powers. I am talking about the environment, planning, education, health, law and order and utility provisions. These are broadly all state responsibilities, albeit the federal government often strays into them. In fact, the Canning by-election, which we have just experienced, was a very good example of that. For nearly all the candidates, one candidate in particular, all the commitments were actually state based. I find it curious why someone would run for federal Parliament entirely on a state-based platform. Nothing frustrates me more as a state member of Parliament than to have that constant competition in the state space. This is why I do not particularly support this amendment. I believe that this is wholly and solely a matter for the federal Parliament. It is quite clearly articulated that that is the commonwealth's head of power, and this is a matter for it to decide and, as the Minister for Corrective Services just outlined as well, particularly advising the commonwealth on whether to run with a plebiscite.

In 2005, we ran a plebiscite on shopping hours. I did not agree with the decision at a state level to run a plebiscite on shopping hours, but the Western Australian Parliament at that time did, and it will be the Western Australian Parliament that carries this message forward. I do not personally agree that a decision on daylight saving was something that we should go to a plebiscite on. I think we should have made a decision on it, but that also went to a plebiscite. My personal view—I think the Deputy Premier articulated it quite well—is that we are elected to make decisions and stand by them one way or another. I hope, going forward, that as a state Parliament, for those decisions that we have to make, we will stand our ground and make decisions on those matters one way or another. A good example went through this house only a few weeks ago, in the form of constitutional recognition for traditional owners. However, this is, in my view, solely a matter for the federal Parliament. That, procedurally, if you like, is simply the reason why I do not support this amendment. I have a personal view on this issue, of course—every member in this chamber will—but it is not really a matter for state Parliament.

MS J. FARRER (Kimberley) [6.52 pm]: I support the member for Maylands in her quest on gay marriage. I come from the Kimberley, and I represent a big electorate that is very diverse. All sorts of things happen in the Kimberley. I have had people who work with me who have gay partners. I am not against it, despite my religion and my belief as an Aboriginal person, and I never experienced these sorts of things while I was growing up. Laws came in and did away with a lot of our rights. I come from a background in which my grandfather had three wives, and there is a reason for all that. It is a different sort of lifestyle. As an Aboriginal person, I have made friends with lots of gay couples, and with the changing times and the way we live, we find more and more of our young people who are adapting to the changes in their lives. I would just like to say that I fully support the member for Maylands.

Extract from Hansard

[ASSEMBLY — Wednesday, 23 September 2015]

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Ms Lisa Baker; Mr Mark McGowan; Dr Tony Buti; Mr Peter Abetz; Mr Colin Barnett; Dr Graham Jacobs; Mr Roger Cook; Ms Janine Freeman; Dr Kim Hames; Mrs Michelle Roberts; Mr Ben Wyatt; Dr Mike Nahan; Mr Joe Francis; Mr Albert Jacob; Ms Josie Farrer

Amendment to Motion

The ACTING SPEAKER (Mr N.W. Morton): There is a process to go through to get to the wording, if that is the will of the house, of the final amended amendment.

Question (deletion of words) put and passed.

Amendment on the Amendment

Question (insertion of words) put and passed.

Amendment as Amended

Question (insertion of words) put and passed.

Motion, as Amended

Question (motion, as amended) put and passed.

House adjourned at 6.55 pm
