

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

- 2 APR 2012

Marriage Equality Amendment Bill

I wish to submit to the Committee a copy of the Hansard from the September 2011 debate in the Tasmanian House of Assembly on a motion in support of marriage equality. This motion was supported by the House.

I was proud to support the motion on marriage equality and firmly believe that marriage is a choice that should be made available to all couples, including those in same-sex relationships.

As Premier of Tasmania I want our community to celebrate equality and diversity and demonstrate respect towards each other: no matter who we are, no matter what our religious beliefs, race, ethnicity, political beliefs or sexuality.

The debate on marriage equality was an important way in which the House of Assembly could send a message to the Tasmanian community and to the whole country that the House does not support discrimination.

Yours sincerely

Lara Giddings MP
Premier



[12.00 p.m.]

Ms O'BYRNE (Bass - Leader for Government Business) - Before we begin Greens' private members' time, I advise members that there has been a House agreement to amend the timing of private members' time to allow a longer debate on the issue being raised by Mr McKim today, which will mean that the Greens' private members' time will go from 12.00 p.m. to 2.50 p.m. with the required lunchbreak, but Mr McKim will be able to defer the vote until the end of what will then be Labor private members' time, which will run from 2.50 p.m. to 3.30 p.m. It does not impinge on the Liberal Party's private members' time but allows a more substantial debate on this important issue. We thank the Opposition for agreeing and look forward to making a more significant contribution ourselves.

SAME-SEX MARRIAGE

[12.01 p.m.]

Mr McKIM (Franklin - Leader of the Tasmanian Greens - Motion) - Mr Acting Speaker, I move -

That the House -

- (1) Supports marriage equality.
- (2) Calls on the Parliament of the Commonwealth of Australia to amend the Commonwealth Marriage Act 1961 to provide for marriage equality.

Mr ACTING SPEAKER - Do you require a vote?

Mr McKIM - Yes, we will be calling this matter on for a vote but, as expressed by the Leader of Government Business, I anticipate that will occur at the end of the amended time for this debate at 3.30 p.m. I thank the House for the constructive way it has approached extending the time for this debate because I know there are a number of members who wanted the opportunity to place their personal views on the record on this issue and in light of that, I indicate that I will attempt to constrain myself to less than 15 minutes so that other members have a reasonable time.

Mr Acting Speaker, make no mistake, this is an historic debate that we are having today in the Tasmanian House of Assembly.

Mr Best - Hear, hear.

Mr McKIM - If this motion passes, this House will become the first in any Australian parliament to express, firstly, in-principle support for marriage equality and, secondly, to call very specifically for reform of the Commonwealth Marriage Act to provide for marriage equality or for same-sex marriage.

All Tasmanians should feel pride that this motion will, I believe, pass in some form through this House today, because Tasmania has come a long way on this issue. Only a decade and a half ago, consenting sex between two adult males was still a crime in this State and we were the last

State to remove that statute from legislation after a lengthy battle in for a, including the United Nations.

How far this State has come over that period of time. In 2003 we passed a very strong Relationships Act which was brought in by the then Labor majority government under the leadership of the late Jim Bacon, supported by the Greens, and also in fact by some members of the Liberal Party, which was given a conscience vote on the issue by its then Leader, Mr Hidding.

On this motion today, marriage equality is something whose time has now come in Australia. It is now unavoidably time to act to remove legally entrenched discrimination in our laws and provide for marriage equality for all Australians regardless of gender and sexuality. By voting to provide in-principle support for marriage equality, Tasmania writes itself into this country's history books as a national leader in advocating a compassionate and progressive society which values diversity and differences and devalues discrimination. We will also be sending a clear message to our Federal counterparts, those who sit in the Commonwealth Parliament, that there is an expectation that appropriate action is taken in a timely manner to remove the discrimination that currently exists in the Commonwealth Marriage Act 1961.

Just as important is the fact that the House voting in-principle support for marriage equality today will give many Australians hope. It will give them hope that they can soon look forward to a wedding day - their own wedding day, that of their brother, sister, son, daughter, other relatives or their friends - and be able to come together, have access to one of the most fundamental civil institutions in our society, the institution of marriage, and celebrate their love for each other with their community in the way that heterosexual couples currently can. That is a positive and powerful gift that today the House of Assembly will give, that gift of hope.

The Greens understand and recognise that the best way to provide marriage equality in Australia is through reform at the Commonwealth level - that is, to amend the Commonwealth Marriage Act to remove the discrimination that was inserted into it by the Howard Government. That was not because they thought it was the right thing to do but it was a political strategy to try to wedge the Labor Party of the time under Kim Beazley's leadership. The Labor Party folded, as it did on more than one occasion in those days, and supported the hateful and discriminatory amendment that was moved by the Howard Government. If the Commonwealth Parliament does not act on this issue in a timely way, the Greens in Tasmania still reserve our right to bring on our cognate package of bills to provide for a same-sex marriage framework in Tasmania. We do so because, if the Commonwealth Parliament cannot or will not act on this issue, we think as a fallback position it would be something on which Tasmania ought to go it alone.

Today all members of the House of Assembly have the chance to do the right thing in removing discrimination. I feel very strongly that in a country like Australia in the twenty-first century, in the matter of whether or not a couple should be able to marry it is not the business of the State to intervene and say to one group of people, 'You are worthy of access to the institute of marriage', but to say to another group of people, purely on the basis of their sexuality, that they are not worthy of access to the institution of marriage. That is where we are today and most people - and I say that advisedly - do not support where the law is today. Poll after poll in this country and in this State have shown overwhelming majority community support for marriage equality. A poll that I co-commissioned with Australian Marriage Equality in Tasmania polled 1 000 Tasmanians and a comfortable majority, 59 per cent, expressed support or strong support for marriage equality. The number rises to 65 per cent of those who were not opposed to marriage equality in Tasmania. In 2007, 1 100 Australians were polled by Galaxy and 57 per cent

supported same-sex marriage. In 2009, another 1 100 Australians were polled and 60 per cent supported same-sex marriage. In October 2010, 1 050 Australians were polled by Galaxy and 62 per cent supported same-sex marriage. In a Nielsen poll in November last year and again in March this year, 57 per cent of people supported legalising same-sex marriage. In July this year a Roy Morgan poll of 543 people showed 68 per cent of Australians support same-sex marriage. On those last two polls Tasmania had the highest support in the country, higher than any other State, for marriage equality. Poll after poll shows that this issue has overwhelming community support.

However, the Greens are not driving this issue because it is popular. We are doing it because it is the right thing to do. For me the strongest argument is about removing discrimination. Unfortunately we still see discrimination in our community against people purely on the basis of their sexuality, and that shamefully occurs in our schools, our streets, our pubs and clubs, in many of the other institutions that exist in our society and in our community. I believe that every member of this House would be opposed to that discrimination which ultimately and tragically can lead to violence against and in some cases suicide of gay and lesbian people who are discriminated against and have violent acts perpetrated against them. I know all members would condemn that, but how can we as legislators and community leaders say to the people in our communities, 'Do not discriminate against people on the basis of their sexuality', when the laws that we create themselves discriminate on the basis of somebody's sexuality. That has driven me to campaign hard on this issue on behalf of the many other people who campaigned so hard on this issue for a long period of time.

Mr Acting Speaker, I would like to acknowledge Rodney Croome's presence in the Parliament here today to witness this debate.

Government and Green members - Hear, hear

Mr McKIM - Rodney quite rightfully was awarded an Order of Australia for his lengthy and passionate contribution to this debate, and it is very appropriate that Rodney be present in the House to witness this historic vote today.

The Commonwealth Parliament should act and I hope that the passage of this motion today will provide national impetus to this campaign. I hope that other State and Territory parliaments will look at what Tasmania is doing, at the leadership we are providing on this issue in the House of Assembly today, and move similar motions calling on the Commonwealth Parliament to act. If the Commonwealth Parliament will not act, as I said, the Greens will bring on our cognate package of bills.

One thing that I would like to talk about very briefly is the economic windfall this would provide for Tasmania. What we have heard from the Liberal Party on this debate is that they would prefer to see the House focusing on things such as the economy and jobs. Well, that is exactly one of the areas in which this motion would drive success and improvement. It would undoubtedly, if Tasmania were to go it alone, provide a massive economic boost and a massive jobs boost into Tasmania. Australian Marriage Equality found that Tasmania's economy could expect a windfall of more than \$100 million if it became the first State to enshrine marriage equality in law, because it would attract same-sex couples from around the country, and I believe from around the world, who would come here to get married, firstly, but secondly who would stay here for their honeymoon to see all of the fantastic natural and cultural attractions that we have on offer here in Tasmania. Of course, they would not come on their own; they would bring their

families and friends for the ceremony, and many of them would stay on. New York has an economic stimulus of approximately a billion dollars as a response to its legalisation of same-sex marriage, and the Mexico City Tourism Authority estimates same-sex marriages are worth \$100 000 a month to that city's economy. Economic benefits are not the reason that this motion should pass today, but if Tasmania were to go it alone they would be an important result.

Mr Acting Speaker, I will wind up my contribution soon because I know other members want to have a say, but there are a couple of other points I really feel I need to make. Firstly, marriage is not a static institution. It has never been a static concept. It has continually evolved through history to meet community expectations and what we are doing today is acknowledging that marriage is not a static concept and that our community's views on the issue of same sex marriage have changed over time and now there is overwhelming evidence that the majority of our community supports marriage equality. On that basis, with the other arguments I have mounted today, there is no doubt that it is time for this change.

The other point that I will make before I conclude is that there is one other reason that the House should show its support for marriage equality and that is the concept of love, which ultimately is what marriage equality is about. It is about respecting the love of a couple for each other and the love of each of us for our fellow Australians. Love does not discriminate; it can strike young or old, black or white, gay, lesbian or heterosexual. Love does not discriminate but the law still does discriminate and unfortunately prevents some people from marrying the person that they love purely on the basis of sexuality and gender. That is not only unacceptable to my Party and me but it is, I believe, unacceptable to most people.

In conclusion, I say again this is an historic day; make no mistake about that. It is an historic day for this Parliament and for Tasmania. It shows how far we have come in this State and it is ultimately an historic day and a milestone in the long campaign for marriage equality in Australia. I look forward to marriage equality being enshrined in Australian law so that same-sex couples right around our country can have access to one of the most fundamental civil institutions in our society, the institution of marriage. I also look forward to ending the legally entrenched discrimination that exists in the Commonwealth Marriage Act so that we can stand and squarely look our communities in the eye and say that we, as legislators, have acted to end the discrimination. It is now time to end it in our communities.

Greens members - Hear, hear.

[12.18 p.m.]

Ms GIDDINGS (Franklin - Premier) - Mr Acting Speaker, I thank the member for bringing this matter to the Parliament today. It is indeed an historic day for the Tasmanian Parliament and a wonderful opportunity for members to be able to express their support to end discrimination in this State.

It is my pleasure to speak in support of this motion. I believe in equality. I believe in fairness. I believe that all forms of discrimination are wrong. I am proud to reaffirm my commitment as a member of a party that for their past two State conferences have passed motions to support marriage equality.

Mr Booth - Hear, hear.

Ms GIDDINGS - I am proud to reaffirm my commitment and that of the Parliamentary Labor Party to these principles in my contribution to this debate.

As Premier of Tasmania I want our community to celebrate equality and diversity and demonstrate respect towards each other. No matter who we are, no matter what our religious beliefs, race, ethnicity, political beliefs or sexuality, this debate is an important way in which we can send a powerful message to the Tasmanian community and to the whole country that this House does not support discrimination.

Government members - Hear, hear.

Ms GIDDINGS - It was not that long ago that Tasmania was the laughing stock of the country where intolerance and discrimination against homosexual people was enshrined in legislation. The passage of gay law reform in this State was belated but we have come a long way since 1997. We now have the opportunity to go further and lead the nation. I acknowledge and believe that there is an increasing level of support to allow marriage laws to cover same-sex couples. Campaigns through social media outlets have proven extremely popular and we know from polls conducted that the majority of Australians believe that it is inevitable that same-sex couples will be allowed to marry one day. Marriage is important and gay couples have the same reasons for wanting to formalise their relationship through marriage as opposite-sex couples. Many same-sex couples feel deep and enduring love and want to have a family, a home, and a shared future and grow old together. Many same-sex couples feel the same level of love and commitment essential for a marriage as opposite-sex couples and I believe they should be allowed the freedom to marry if they choose. Fundamentally this is about choice. I know many couples who are in long-lasting relationships, some of whom would like the opportunity to marry and others who are quite comfortable in their relationship and do not want to marry. The fact that they do not have the right to make their own choice is the issue we want to try to rectify.

There are no logical reasons to deny same-sex couples the right to marry. The personal moral disapproval that individuals may feel towards marriage equality is not reason enough to allow this discrimination to continue. Moral disapproval is not a reason to deny or curtail rights and freedoms. The denial of marriage to lesbian and gay couples and their families is discrimination that must be changed. We know how important marriage is for the couple involved and for their children and broader family. I acknowledge the comments of David Foster recently in support of marriage equality. I think he was very brave, as was his daughter in allowing him to speak of her circumstances. Just quoting from an article in the *Mercury*:

'Foster's recent public support of gay rights has been prompted by his daughter's desire to marry her lesbian partner. Foster's daughter, 25-year-old Sally, has a 12-month-old baby with her partner. The burly axeman, who is a father of four, said he had already walked his eldest heterosexual daughter down the aisle when she married and he was intent on walking Sally down the aisle too.'

That to me highlights just how wrong it is that we live in a country where that choice is taken away from Sally and her partner; it is taken away from them to formalise their family through marriage and it has taken away the right of a father to be proudly able to walk his daughter down the aisle.

Marriage is an important social safety net and it should be in place for all those in our community who choose to take that solemn vow. While I hope that such change will occur, my

advice is that this matter legally needs to be dealt with at the national level through an amendment to the Commonwealth Marriage Act, as noted in this motion.

The Labor Party in Tasmania has a proud record in progressing law reform that removes discrimination and recognises the rights of those across the lesbian, gay, bisexual, transgender and intersex community. In 2003, this Parliament passed the Relationships Act 2003, which provided for the recognition and registration of significant relationships between same-sex and opposite-sex partners. In passing the Relationships Act the Tasmanian Parliament conferred a wide range of rights and obligations on same-sex couples in this State under State law. This was groundbreaking law reform, driven by the former Attorney-General, Judy Jackson. At the same time, Attorney-General Jackson also sought to remove from all Tasmanian laws any provisions which would discriminate against people in significant relationships, and in particular against couples in same-sex relationships. Members who were here at that time would remember, through those debates, that there were two aspects of the consequential amendments that did not gain the support of the Legislative Council. I was proud in my time as Attorney-General to help progress those matters and show my personal commitment to equality for gay, lesbian, bisexual and transgender people in Tasmania by progressing amendments, with the support of the Parliamentary Labor Party, to provide for the legal recognition of same-sex parents, civil union ceremonies and recognition of overseas same-sex marriages.

In 2009, the Parliament supported the Government's amendment to the Status of Children Act to remove discrimination against same-sex couples in relation to a number of issues that related to children and their ability to have children, adopt children and the like. This amendment was evidence of how open and progressive the Tasmanian community had become. Indeed I remember being surprised by the Legislative Council, which in fact took my legislation a step further at that time - an amendment which we gladly supported.

The amendment to allow for the recognition in Tasmania of overseas same-sex marriages and other registered relationships took effect on 1 April this year. These amendments mean that relationships registered in several other states and countries are now recognised under Tasmanian law. These changes ensure that many couples coming to Tasmania are treated with the same dignity and afforded the same rights as couples in registered relationships in the State. Tasmania's recognition of corresponding laws in other jurisdictions is an important step in a more national approach to civil unions and the march towards full marriage equality. As a State government we have tried within our legislative framework to provide for the closest possible process that is like marriage but recognise that it is not marriage. We were, through that law reform, able to provide opportunities for civil ceremonies to be conducted and for registration of that relationship to be recognised as being on the day of the civil ceremony and not on the day that documentation was signed in a registry office. I recognise that is not the full step and there is a further step that must be taken towards marriage equality.

Marriage equality has been achieved in 12 countries across four continents, including Canada, Iceland, Sweden, the Netherlands, Spain, South Africa, Portugal, Argentina and Norway, as well as in several states of the USA. In a column by American civil rights lawyer and advocate, Evan Wolfson, he comments:

'Gay and lesbian couples and their families around the world embrace the meaning marriage brings to their lives. We see every day that their love and commitment hurts no-one. Religion is not harmed as this is about civil marriage licences, not religious rights or celebrations that are up to each faith to decide

on its own. Kids are not harmed. In fact, ending marriage discrimination helps the children raised by gay and lesbian parents while taking nothing away from anyone else, and communities are not harmed. Marriage helps bring strong families and more strong families means a stronger community for us all.'

The achievements of other countries in achieving marriage equality have not been without struggle and opposition from some in the community. In countries where the majority of the population are Roman Catholics, such as Argentina, Portugal and Spain, there has been a strong faith-based opposition to marriage equality. I accept that many religious groups hold the view that marriage should be between a man and a woman, but there are also practising Christians in our community who support the push for marriage equality. I congratulate Rev. David Hunnerup, a minister with the Uniting church in Tasmania, who has argued for marriage equality. Rev. Hunnerup argues that the denial of access to the institution of marriage for homosexuals is both offensive and discriminatory. Like Rev. Hunnerup, I can appreciate that for many Christians the thought of two gay people being allowed to marry is difficult and challenging. Rev. Hunnerup has said that if he were a member of parliament he would be voting in favour of gay marriage because he believes:

'Gays can have access to the institution of marriage because they are actually normal, fully human and with no more or less moral and social deficits than you and me and anyone else.'

At the core of this debate is the belief that we are equal before the law, and where the law prejudices one person over another change is required. A gender-neutral marriage act in this country would remove the discrimination currently experienced by same-sex couples who wish to marry, and those who support them in this effort. A gender-neutral marriage act is not about diluting or damaging the concept of marriage. It is about equality and fairness. I do not believe there is a member in this House who would support previous restrictions in the Marriage Act that prevented whites and non-whites or people from different religious backgrounds from being able to marry, and yet today we deny people the right to marry on the basis of two people being of the same sex.

This Parliament passed the Relationships Act and the subsequent amendments because we wanted to remove discrimination from our community. This motive is shared by those jurisdictions that have progressed marriage equality. Spanish President Jose Luis Rodriguez Zapatero explained in defence of his marriage equality bill:

'This law will not generate bad results. Its only consequence will be to avoid senseless suffering of human beings. A society that avoids senseless suffering of its citizens is a better society.'

The LGBTI community have tolerated abuse and insults and restrictions on their civil rights for far too long. The time for marriage equality is here. I do congratulate my colleague, the member for Franklin and Leader of the Greens, Mr McKim, for moving this motion and bringing on this important debate. On behalf of the Australian Labor Party and the Parliamentary Labor Party, I am proud to support the motion.

Government and Greens members - Hear, hear.

[12.32 p.m.]

Mr HODGMAN (Franklin - Leader of the Opposition) - As I have indicated publicly, the Liberals will not support this motion. Our clear and consistent position is that we support the definition of marriage as contained within the Marriage Act, a piece of Commonwealth legislation, a creature of the national Parliament itself, not the State Parliament of Tasmania. Our position has not changed. I will say from the outset that the Liberal Party also very strongly believes in the institution of marriage. We believe in what it means, as it is defined under the Commonwealth legislation as a union between a man and a woman. The Liberal Party supports marriage as so defined. We do strongly support the institution of marriage and its value in our community, and the benefits of marriage in bringing social cohesion as a foundation of the family, and indeed that which benefits children, both born and those who will be born from a marriage. Our strong support for these things and our desire to see these institutions growing and supported and strengthened in no way demeans various other forms of relationships that exist. Any attack from those in the community against those who strongly support the institution of marriage as bigoted or homophobic, is as offensive as it is wrong. Our support and indeed the support those in the community who support marriage as defined under the Commonwealth law is certainly a very strong indication and reflection of support for preserving and strengthening an institution, a marriage, as a union between a man and a woman. It is one which importantly often involves children. We do not resile from our strong support for the institution of marriage as defined by the laws of our land, the government of our nation. Our commitment to supporting and strengthening this institution is without in any way demeaning other relationships or other forms of relationships that do exist and which are also deserving of support in a community. Clearly no-one in our community should be subject to vilification or abuse on the basis of race, religion, gender, sexual orientation, but to argue strongly in support of the institution of marriage as is defined in no way suggests that anyone will necessarily be tolerant of such a thing occurring.

Mr Acting Speaker, I have said also that I believe this is essentially an inconsequential motion because even if it passes it will not change the law. It is the Commonwealth of Australia's responsibility to amend the Marriage Act if it chooses to do so. That in itself is reflected in the motion. All this motion does is have just one House of the Tasmanian Parliament deliberate on calling on the Federal Government to do something to change the law, something which they have consistently refused to do and, as I say, importantly it does exclude the other elected members of this Parliament in the Legislative Council, so it is not even an expression of principle from the full Tasmanian Parliament.

It has to be said that there is a fair degree of political grandstanding going on here around this issue. The Greens have, of course, abandoned their original approach to actually change the law in Tasmania to provide for same-sex marriage and have instead now moved a motion into our House of Assembly which only sends a message to the Commonwealth about this issue. No doubt they will be able to reflect in the glory of some media reports that this is leading the nation, is ground-breaking and so on, but -

Ms O'Connor - Don't cheapen this debate.

Mr HODGMAN - it is a significant departure from your original position to introduce legislation to actually change the laws in Tasmania, not just express a view and, as I say, it is not even an expression of the whole Parliament. It will only be an expression of two parties combined with the majority of members in the lower House, so to inflate it as some nation-leading message to Canberra is tenuous, to say the least.

But that is the grandstanding that is going on and no doubt you are anxious after taking some fairly revolutionary positions in recent times, the most notable being your support, Mr Booth, for example, for Gunns to receive financial support and assistance from the Tasmanian taxpayers. I think this is illustrative of a dysfunctional alliance. We saw the spectacle of the Premier only just climb on board in the last day or two when her party moved a motion a month ago, but she has not acted on this any sooner because her party's stated position is that this is inconsequential and is not going to effect the change that you would have happen. If it did you would introduce that legislation yourself, so I think it is important to note that, sadly, there is a considerable degree of grandstanding over this issue which I think is more of a reflection on an unstable and dysfunctional alliance and a desire to divert from some very significant issues this Government is facing and should be challenging.

It is worth noting that the Greens introduced legislation into this House in 2005, 2008 and 2010. At that time the Leader of the Greens said he would bring on his bills for debate in early 2011. Well, that did not happen. He also said at the time that he had legal advice from Professor George Williams of the University of New South Wales that there was no constitutional barrier to the State legislating to create a same-sex marriage system. Then not even two weeks later, on 16 November the Greens tabled a new motion referring their own bills to the Tasmanian Law Reform Institute for examination, so it appeared that the Greens were uncertain about the advice they had received or the true position of whether or not this could be done. He said it would be up to the Law Reform Institute to examine the bill to determine whether States could not or should not legislate themselves for same-sex marriage. Why he did not do that before he introduced his bill I am not sure. However, the motion to refer the matter to the Law Reform Institute has been sitting on the Notice Paper since 16 November last year and that has not been brought on for debate. As I say, now we have another approach and that is to introduce this motion, a watered-down position that refers the issue to the Commonwealth as the jurisdiction responsible for the Marriage Act asking the Commonwealth to amend that act, presumably now because Mr McKim accepts that it is a Federal issue.

What I am highlighting here is a very confused approach to trying to advance an agenda, one which has seen the Labor Party in furious agreement but jumping on and off when it suits, and perhaps not showing the same degree of urgency, I concede, but one which has not been advanced in all this time to any significant degree by the member, who we now know has the support of his Labor colleagues. It has not been a consistent approach; it has simply been a grab-bag.

Ms O'Connor - Did Eric Abetz write your speech?

Mr ACTING SPEAKER - Order.

Mr HODGMAN - Then he says he might come back -

Mr McKim - This is straight out of the Eric Abetz playbook.

Mr HODGMAN - I am just putting on record what has occurred here. Then he says he might come back in a few months' time and introduce the bill anyway.

Mr McKIM - Point of order, Mr Acting Speaker. I have sat here and listened to inaccuracy after inaccuracy, but the member should know the bills are currently on the Table in this Parliament so I will not be able to introduce them; they are already introduced. What I have said

is that if the Federal Marriage Act is not amended in a timely way we will bring them on and if it does not happen by early next year we will be debating those bills in this place.

Mr HODGMAN - You will still bring the bills on anyway, so it begs the question as to why you did not do so in the first place. Because of all this, the months and months of an inconsistent grab-bag approach to this issue, people are saying, 'Well, where are your priorities?' The other day, for example, you were not even across the detail of changes you had made to your Adult Education system. You could not explain that.

Ms Giddings - You've called how many no-confidence motions and wasted our time?

Mr HODGMAN - There is your prison system where five months ago you had an expensive report undertaken which said as one of its keys recommendations that you should appoint a change member -

Mr McKIM - Point of order, Mr Acting Speaker.

Mr Hidding - Stop taking frivolous points of order.

Mr ACTING SPEAKER - What is the point of order?

Mr McKIM - It is that this contribution demeans the issue, it demeans same-sex couples and demeans attempts to remove discrimination from our community.

Mr ACTING SPEAKER - Order. That is not a point of order.

Mr HODGMAN - I sat in silence and listened to Mr McKim and his provocative statements and I am simply making the case because we have been attacked for suggesting that people in the community expect you to be focusing on other things as well as this issue. We were told that the change agent should be appointed to our prison system five months ago, yet we hear the other day you are just advertising for that person and it may not happen until the end of this year. So it has taken you a whole year to do that, yet you have taken this confused approach -

Mr McKim - This says a whole lot more about you than it does about me.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - to dealing with an issue of priority. You made a point the other day, Minister, that you can chew gum and walk at the same time. Yes, you can, but it just looks like all you are doing is chewing the gum; people are expecting you to also apply -

Mr ACTING SPEAKER - Mr Hodgman, if you could address your remarks through the Chair you would not get so many interjections.

Mr HODGMAN - the same degree of urgency and attention to some of those other issues. We will argue for a government to be focused on jobs, the economy and keeping the cost of living down. They are the priorities for the Liberal Party and they are important priorities for Tasmanians. Yes, you can chew gum and walk at the same time but the minister is just chewing gum and people are expecting him to at least show a consistent approach to progressing this matter if he is serious about it and not just about political grandstanding. If he were, we would

not have had this situation where he is on again, off again, one minute it is a motion, one minute it is a Federal issue; then it is a State issue; one minute we cannot do anything about it, next minute we can. That is why I have said this is an inconsequential motion. It remains to be seen whether or not the Gillard Federal Government will do anything about it because the Prime Minister's statements are that she does not believe in same-sex marriage.

Ms O'Byrne - What do you believe?

Mr HODGMAN - I am telling you now; I am on my feet telling you. We will see whether or not the Prime Minister takes any more notice of you on this issue than she does on some of the others. They have not advanced this issue at all in a coherent or consistent way and one can only draw the conclusion that this is about political grandstanding and political posturing.

Government and Greens members interjecting.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - That is why we want to see this issue resolved and many in the community would expect to see the minister do so in a more consistent fashion and one which does not constantly involve this Parliament in a debate which we will have, apparently before the end of the year, 16 sitting days left and we will be having the same debate again.

Mr McKim - What?

Mr HODGMAN - If you bring your bill on for debate -

Mr McKim - I said, next year.

Mr HODGMAN - Okay, sometime next year then. So we will be having a debate again and why you could not introduce your bill now, I am not sure.

As I have said, the Commonwealth Government has always had the ability to change the Marriage Act if they so choose, a government currently lead by Prime Minister Gillard. It is not a matter that can be dealt with by the State legislature. Apparently we are all agreed on that. When this matter was raised by Mr McKim last year, or when he introduced his last bill, he pointed to legal advice he apparently had and we sought our own from respected constitutional lawyer Michael Stokes who said in his four pages of response, and I quote:

'In my opinion, the proposed same-sex marriage act is inconsistent with the Commonwealth Marriage Act 1961 and would therefore be invalid under section 109 of the Constitution.'

I am happy to table that if members would like to see it.

Leave granted.

Ms Giddings - It is not the debate today, however. The debate is about marriage equality, standing up for that. It is irrelevant to the debate.

Mr McKim - It is completely irrelevant, but go on.

Mr HODGMAN - As the Premier said the other day, when justifying with the Greens their decision to pay money to Gunns, that often there is no right or wrong in legal debate. There are often differing legal views and clearly that is the case in this instance as well. I gather from what the minister is now saying that he accepts that this is a Commonwealth matter that should be determined by the Federal Government.

Mr McKim - No, that is incorrect.

Mr HODGMAN - Okay. You can state your latest position.

Mr McKim - My position has always been consistent.

Mr HODGMAN - I believe it is a Commonwealth matter, Minister, and I would imagine that the Attorney-General would probably share that view. The Attorney can have his say in a minute on whether or not he thinks this is a matter that the State can legislate on and if it is, and if he feels so strongly about his convictions, why isn't he changing the law?

Ms GIDDINGS - Point of order, Mr Acting Speaker. Obviously the Opposition Leader did not listen to my contribution and the fact that the Labor Government does not believe that it can be through State legislation, it has to be through Commonwealth legislation. The member has refused to put on the record whether he supports marriage equality and if he wanted to, he could amend the motion to be just supporting marriage equality. But he does not have the guts to state his position.

Mr HODGMAN - Thank you, Premier, for clarifying that issue for me and also your Attorney who is sitting there suggesting that it might be something where you can change the law. I said in my opening remarks what my position and the position of the State Liberal Party is. That is exactly what our position is.

Members interjecting.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - It is crystal clear, it is consistent.

Members interjecting.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - I do want to mention the issue of opinion polls, which is often used as a reason to change the law, and their role in this debate. Obviously regard will be given to them but I would urge against policy by opinion poll and they do not always represent a consistent picture of community sentiment. We know, at a national level, a number of Federal MPs recently sought feedback from their constituents and they reported back to parliament - and these are Tasmanian MPs - and presented a very different picture to Mr McKim's and his opinion poll. For example, the member for Denison Andrew Wilkie said the electorate of Denison was split on the issue, and Braddon Labor MHR Sid Sidebottom posed the question on a website poll with 49 per cent indicating they were in favour and 50 per cent were not and the balance was undecided. Federal MHR for Lyons, Dick Adams, said 128 constituents were against gay marriage while 12 were in

favour and there was no feedback, apparently, from Labor Bass MP, Geoff Lyons. That clearly differs considerably from the poll that Mr McKim has produced and that is fine. All I am saying is that there is often wide inconsistency between opinion polls and to place all your weight of argument or a large part of it on that basis is foolhardy and not necessarily a true reflection of public sentiment. Even if you are assured of its accuracy it does not necessarily make it right and I would urge the Government, or any government, not to govern by opinion polls.

Ms O'Connor - That is a bit rich coming from you. John Howard made a speciality of it.

Mr HODGMAN - Or if you did you would take note of the last EMRS poll on how well your Government is going and call an election, but you will not do that will you? No, you will not do that.

Members interjecting.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - You will not accept the fact that 80 per cent of Tasmanians do not support Ms Giddings as Premier. No, you will just ignore that opinion poll, won't you?

Let me be crystal clear, Mr Acting Speaker, in closing. Every member of the Liberal Party totally, totally rejects discrimination and vilification in our community especially on the basis of issues of race, religion, gender or sexual orientation. We respect and appreciate that members of the community have diverse views on this issue of same-sex marriage. We do not accept that this motion passing the House of Assembly will necessarily reflect the views of all Tasmanians, nor indeed the majority of them or, more importantly, it will have a material impact. I suspect there will inevitably be the claims from some, including members of this House, in relation to our position that it is somehow endorsing or promoting inequality and discrimination and I strongly reject that on every count. Again I refer to our consistent stated position held by every member of the Liberal Party in our belief that equal recognition -

Ms O'Connor - That is rubbish. Where is your Deputy Leader?

Mr O'Byrne - As told by Senator Abetz.

Ms O'Connor - Where is your Deputy Leader?

Members interjecting.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - What, did you not see his statements. Did you not hear him on the radio? Have you not read his public comments in recent days? No. Okay.

Members interjecting.

Mr ACTING SPEAKER - Order.

Mr HODGMAN - Selective hearing on the part of members opposite will not change the fact that the Liberal Party is unified on this issue. It may not please you and you may disagree

with us but if that is the best you can do, trying to concoct some sort of division which does not exist to make a political point, well again that shows that this is more about political grandstanding than the issue itself.

Our record speaks for itself and if there are other instances of discrimination that occur on the basis of sexual orientation, or indeed any of those other things, then they should be dealt with and can be dealt with without necessarily having to change the Marriage Act to do so. I proudly point to instances where our party, in this place, has supported laws that will in fact remove discrimination in the community especially those in same sex relationships. The vote, for example, of Liberal members in this place to support equal recognition of same-sex couples in all Tasmanian laws; the establishment of Australia's first civil partnership scheme; support of legal recognition of co-mothers of children born through fertility treatments; and support of the legal acknowledgement of overseas same-sex marriages in Tasmanian law.

Ms O'Connor - Well why won't you support the marriage equality?

Mr ACTING SPEAKER - Order.

Mr HODGMAN - I personally voted for same sex recognition in this House. The Liberal Party back in government in 1997 also delivered significant law reform in this area. At the last election we also had a policy commitment to bring in laws which would provide for harsher penalties against those who commit violent crime motivated by hatred on the grounds of sexual orientation. So our record speaks for itself and as I say where there are instances of discrimination they should be dealt with without unnecessary recourse to amending the Commonwealth law of Australia which defines marriage. For those who are consistently, deliberately and untruthfully trying to deny our re-stated and consistent position, let me make it crystal clear again. We support the definition of marriage in the Commonwealth Act and what it means, what it stands for and so defined.

I will conclude, Mr Acting Speaker, because I would hope perhaps the words expressed by the Anglican Bishop of Tasmania, the Right Reverend John Harrower, very succinctly articulates the arguments against this very motion. I do so not on the basis of Bishop Harrower's religious perspective but as a very articulated expression of arguments against. I will start with a report on the ABC News website from an interview he conducted, where he says redefining marriage is a step too far, and I quote:

'It's not just a word. Words have meaning, they are set in context in culture, and this particular word has the treasured meaning of a man and a woman coming together in love for a lifetime union together'.

From his statement yesterday, and again I quote the Bishop:

'I have consistently upheld the church's affirmation of the definition under the Marriage Act that marriage is the union between a man and a woman to the exclusion of all others voluntarily entered into for life. I have consistently supported the recognition of gay and lesbian relationships, and have advocated for appropriate legal protection for gay and lesbian couples in areas where there was formerly discrimination.'

I am quite happy, Mr McKim, for you to attack me, but I would ask you to show some respect for Bishop Harrower, who is expressing a view commonly held by many Tasmanians.

Mr McKIM - Point of order, Mr Acting Speaker. I just have to put very quickly on the record that I have never shown any disrespect towards Bishop Harrower and I reject the implication that I have.

Mr ACTING SPEAKER - That is not a point of order.

Mr HODGMAN - I hope you respect his argument, which goes on to say, and I quote from his media release. Bishop Harrower said:

'Mr McKim's call for marriage equality is disingenuous. What he intends is a redefinition of marriage itself. Redefining marriage does very little, if anything, to extend rights or equality before the law. It appears to be less about extending rights to a minority and more about compelling all to conform to a novel and unnecessary view. The institution of marriage is much more than the expression of private love, but is a responsibility and a commitment of a particular sort within society. Redefining marriage will disenfranchise those who have embraced and value that particular form of commitment.'

I read that into *Hansard* because they are public statements recently made by the Anglican Bishop of Tasmania which, in my view, encapsulate the views of many in our community who do not support the concept of same-sex marriage and are strongly supportive of marriage as -

Mr McKim - It doesn't mean they're right.

Mr HODGMAN - I know that is your position, but I am putting to you, Minister, an alternative one. I beg your pardon, Mr McKim?

Mr McKim - I said you are over your time and there are a number of other members who would like to speak.

Mr HODGMAN - Well, if you had been as polite as that when you first made the comment -

Mr Best - Some of us want to actually make a contribution, not smoke-and-mirrors waffle as you have done for the last 20 minutes.

Mr HODGMAN - On that basis, for all the reasons I have stated, the Liberal Party will not support this motion.

Mr Best - What a disgrace!

Mr McKim - That says a lot more about you than it does about everyone else.

Time expired.

[12.58 p.m.]

Ms O'CONNOR (Denison - Minister for Human Services) - Mr Acting Speaker, there are only a few short minutes before lunch. We have heard the contribution from the Leader of the

Opposition and I have to say from a personal point of view I felt sick listening to him. I felt sick because what he espoused was actually bigotry, effectively.

Mr Hodgman - I predicted you'd say that.

Ms O'CONNOR - It was bigotry.

Mr Hidding - This is the rational, calm debate we're going to have?

Mr ACTING SPEAKER - Order, Mr Hidding.

Ms O'CONNOR - I am about to make a rational and calm contribution, but it was so insulting to loving, same-sex couples all over the country. It is a denial of love and a denial of equality before the law. It is support for discrimination, injustice and unfairness towards people on the basis of their sexual orientation, and there were times there when I was listening to the Leader of the Opposition when I was not sure he actually believed what he was saying, that it came from a hollow place inside him.

Mr Hidding - Leave the personal attacks.

Ms O'CONNOR - Leave the personal attacks? That is a bit rich when we have just had half an hour of personal attacks!

Mr Hidding - Just because someone doesn't agree with you.

Ms O'CONNOR - Mr Acting Speaker, we have an opportunity here in this historic debate -

Mr Hidding - You guys can have this debate all to yourselves.

Mr ACTING SPEAKER - Mr Hidding and Mr McKim, please stop interjecting and give the minister a chance.

Ms O'CONNOR - to express our support for loving couples and to speak out against discrimination and injustice before the law, and it is in these debates in this place that you get the finest contributions out of members. I was overwhelmed by the speeches from the Premier and the Leader of the Tasmanian Greens, because that was the finest expression.

Sitting suspended from 1 p.m. to 2.30 p.m.

RECOGNITION OF LIVE-STREAM AUDIENCE

Mr ACTING SPEAKER - Just before we get underway I would like to welcome the significant number of people I believe who are watching this over the video stream. Welcome to you all.

Members - Hear, hear.

SAME-SEX MARRIAGE

Resumed from above.

[2.31 p.m.]

Ms O'CONNOR (Denison - Minister for Human Services) - Mr Acting Speaker, the first thing I want to do now that I am back on my feet is express some contrition for the language I used just before the lunch break. It was unnecessary and it came from a place inside where I did feel sad as a human being committed to love, diversity and equality when I listened to the Leader of the Opposition's contribution, but I am going to move past that now.

As the Minister for Community Development and as a passionate advocate of equality and diversity I am very proud to participate in this debate in support of marriage equality in the Tasmanian Parliament. It is the first place that we have had such a debate and it will have what I know will be majority support within this House. I want to acknowledge here today participants in this year's Youth Parliament. As members would be aware this year's Youth Parliament passed a motion in support of marriage equality, which is an indication of how fair-minded and progressive our young people are and I want to pay my respects to the participants in Youth Parliament.

Mr ACTING SPEAKER - And what very good debaters they are.

Ms O'CONNOR - Excellent debaters they are and we could probably learn quite a bit from them. I just want to thank them for their contribution to the debate on this issue in this place.

What we are here talking about today in many ways boils down very simply to love. This is about love between two people regardless of their gender and sexual orientation. In my view, love is the most powerful, enduring and life-giving force on earth.

Mr Hidding *interjecting*.

Ms O'CONNOR - Well it is, Mr Hidding - an enduring human quality. Love is a very beautiful thing and it is the finest expression of the human spirit. It is through the expression of love for our family, our partners, our children and each other that we can be the best that we can be. In my view to deny marriage equality is to deny the power of love and the goodness of love between two people. I heard the arguments from the Leader of the Opposition and I respect that difference of opinion -

Mr Hidding - No you don't.

Ms O'CONNOR - Yes, I do. I disagree with it, but I do respect his difference of opinion. I am concerned that his contribution was in part an expression more of politics than of philosophy but that is not what I am here to talk about today.

To deny marriage equality is in my view to support discrimination against two people who love each other, to support injustice, to deny the principle of equality before the law, to deny love. That is fundamentally what refusing to support marriage equality comes to. One of the finest expressions of love I have heard in recent times came from Els McIntosh, who was a participant in our marriage equality forum that was held last week in Hobart. Els is the mother of a homosexual man. I am just going to read into the *Hansard* part of Els's contribution to that forum

because I am quite sure that there was not a dry eye in the place when Els made her very short speech about her experience as the mother of a homosexual boy. This is Els's story:

'I have a son and his name is Nick. Nick came out about 11 years ago when he was 17. Before that, he didn't have an easy time. He was teased at school, didn't have many friends and started to get panic attacks. But after he came out it was a different story. He became confident, happy and outgoing. He was popular and made many friends. His panic attacks stopped.

I realised then that Nick is gay in the same way that I am heterosexual, that his being gay is an integral part of him and not a lifestyle he decided to adopt. Nick had come into his own; he had found his identity.

A few years ago, Nick brought home his first boyfriend. I still remember I was hugely embarrassed because here was my son, not with a girlfriend, but with another man! It got me thinking about gay sex and I came to two conclusions. One was that it is okay, as okay as heterosexual sex between two consenting adults, and also that, actually, it was none of my business.'

I will truncate Els's contribution:

'On my walks into town I often pass Elizabeth College. I started noticing all the flirting that goes on in the breaks there, but never between two boys. When my husband and I walk down the street we always hold hands but I realised that I never saw any gay couples holding hands and, of course, it wouldn't be safe. They could get harassed or bashed, like happened to Daniel Stanley in Ulverstone not so long ago.

Now I am a member of Amnesty International. At Amnesty I get to hear about all the oppression that goes on in world, also the oppression of gay, lesbian, bisexual and transgender people. For instance, in Uganda there was recently an attempt there to introduce the death penalty for homosexuality. In Saudi Arabia, gay men and women, if they are found out, get executed. In Iran, there is death by stoning. In Fiji, 14 years in prison. In Pakistan, life and 100 lashes.

This is the world my son inhabits. I invite every heterosexual person in this room to put him or herself in my son's shoes. Openly flirting, no. Holding hands in public, no. Chances of getting bashed, yes. Marriage, no, and gross persecution in quite a few overseas countries.

This is not freedom. And that is the most important reason why I want same-sex marriage, because more than anything else the right to marriage for gays says, you are free to be who you are, and it also says, you are okay, you are equal and you have worth. You have as much worth as heterosexuals and that is what I want for my son.'

I also took along my daughter to the forum on that night and she listened very carefully to every word from every speaker and listened to the questions that came from the audience. We had representatives there of the Christian lobby and it was a very interesting discussion. It was a bit heated from time to time but it was a fascinating exchange. My daughter said afterwards, 'The

problem with not supporting same-sex marriage is that it stops gay people from being who they are'. It was such a simple, profound take on the issue from an engaged 11-year-old child. I was really very proud of her and that lesson that she took away from the experience at the marriage forum.

Mr Acting Speaker, there are many speakers who wish to make a contribution today, so I will not speak for very long. I am still baffled by where the opposition to marriage equality comes from. What are the opponents afraid of? Where does the fear come from? Does it come from something inside them that makes them feel threatened as a heterosexual? I do not understand why the opponents of marriage equality would not want two people who love each other to have the opportunity to express that love through the union of marriage and that is what we are here discussing today. I am very proud to support this motion. I am very proud to be a member of the Tasmanian Greens and of the Tasmanian Parliament where, on this side of the House, progressive elements of the Parliament will vote in support of this motion. It is a historic day for our Parliament and I am very proud to be able to say that I will support this motion because, fundamentally, what it is about is very simple. It is about recognising, respecting and enabling the love between two people irrespective of their gender and sexual orientation. It is simply about recognising their love for each other and allowing that love to express itself through an end to the discrimination that prevents people of same sex from being married.

[2.40 p.m.]

Mr WIGHTMAN (Bass - Attorney-General) - I was raised a Christian and continue to believe in a greater spiritual power. I take great pride in the knowledge that I was sworn in as a Cabinet minister and a member of Executive Council with my hand on the Bible. My parents are the product of a country where hatred was used as the basis of religious belief and they remain cognisant of the feelings of ill will which that created for generations. They chose to migrate without the support of their family, to take a chance for a better life in Australia. Today, and as a result of their courage, I stand here as Tasmania's Attorney-General speaking in favour of this motion and encouraging the Federal Parliament to engage in a debate concerning marriage equality. I understand that marriage is an emotive issue and is bound to generate an emotional response for many in the community, and indeed in this Chamber. It is true that the legal history of marriage in this country has been between a man and a woman and it is inevitable that suggesting any change to this will provoke debate in our community, but it is time for this debate to occur.

In 2011 we live in a prosperous and developed country. We are not incapable of understanding and rational and reasoned discussion and that is why the ideal of marriage equality should underpin a community conversation that reaches the highest level of law making in Australia. Same-sex relationships are nothing new and I reject the notion, which is at times articulated, that people in a same-sex relationship have somehow made a lifestyle choice or that they should be cured of their homosexuality. Those arguments are offensive and illogical. For as long as human beings have loved there have been people who love those of the opposite sex, as well as people who love others of the same sex. For as long as we have existed same-sex-attracted people have loved one another. The fact that same-sex couples, who as valued members of the Tasmanian community, feel safe to articulate their feelings should be celebrated. Tasmania has a proud history of championing the rights of same-sex people. The Tasmanian Relationships Act was nation leading when it was introduced in 2003, recognising the rights of same-sex couples in this State. It has been followed by other jurisdictions. Our legislation allows same-sex and opposite-sex couples to register their relationship under Tasmanian law.

Further, members would be aware that in Tasmania same-sex couples are able to foster children, with the support of the Department of Health and Human Services. There are same-sex couples that freely and lovingly open their homes and lives to children in need in this State. Foster children are more often than not the most vulnerable children in our communities. If we are happy to entrust same-sex couples with the care of our most vulnerable children, but they are not allowed to marry, then it is quite clearly time for a debate to occur. We allow adoption of known children by same-sex partners in this State, so we entrust same-sex partners to be the legal parent of a known child through adoption, but they are not allowed to marry.

Tasmania has taken these progressive steps because we as a community recognise that same-sex people are valuable members of our State, just like any others. Recognising the importance of same-sex relationships is about much more than symbolism. The rights extended under the Tasmanian Relationships Act are vital when it comes to issues such as the medical treatment of a partner or child and for ongoing care of loved ones. Imagine for a moment a same-sex couple who have been together for perhaps 20 or 30 years, they have shared everything a couple shares - a home, family, travel, work, good times and bad - imagine when one of the members of that couple becomes ill and is hospitalised. Can you see your partner of decades being ill in hospital and you being denied access to them as their next of kin? This is how it used to be, but under the Relationships Act this no longer occurs. As a government and a parliament we have removed that uncertainty, that unfairness for same-sex couples. Now consider a lesbian couple that together decide they want to raise a child. They conceive through IVF. One partner carries the child, and together they share the child's upbringing. Should that child become gravely ill and a decision be made concerning their medical treatment, in the past only the biological mother would have been able to be involved in that scenario. That injustice has been removed under the Relationships Act.

I am proud of these changes, Mr Acting Speaker. I am proud to be a member of a Labor government that stands up for the rights of all in a democratic society. Relationships recognition is about more than symbolism. It is about the fundamental notions we take for granted in life, such as being able to care for a loved one. It is about our day-to-day lives and being a member of a family. The time has arrived for the debate to occur at a national level, a debate about what marriage equality means in a modern society.

The EMRS poll taken in February and released this week shows that almost 60 per cent of Tasmanians support the right of same-sex couples to marry. This is indicative of the fact that we are a modern society living in modern times. However, I understand that this is a sensitive issue, based on the e-mails I receive from many Christians who are not supportive of same-sex marriage, but I am a person of faith and a person brought up in a Christian household and I know that I am not alone in my support of marriage equality.

Earlier this year a group of prominent clergy from the Uniting, Baptist and Anglican churches in Australia put their support for marriage equality on the record following the establishment of a group called Christians for Gay Marriage. Within days of the group being formed, almost 10 000 Australian Christians had already sent letters to their local Federal MPs expressing their support for marriage equality. It saddens me that some use the Bible to demean same-sex relationships when in fact Christ is silent on homosexuality. Indeed, scripture has been used over centuries to justify all sorts of atrocities, which today no Christian or Christian organisation would see as being in keeping with biblical teachings or faith in general. The founder of Christians for Gay Marriage, Uniting Church minister Leanne Jenski, who is in a same-sex relationship, has said:

'I long for the day when my partner Susan and I can finally marry with the full blessing of the Church and State. God is not against us, but unfortunately some Christians are'.

Roland Croucher of John Mark Ministries has argued:

'Today in Australia we all live in a secular, non-discriminatory society. How can I, a heterosexual who has been very happily married for 50 years, tell anyone else they do not have the right to form a loving, committed life-long union and enjoy the fruits of marriage as I have done?'

Marriage is not a club to be restricted to some. It is a blessing to be shared and further Christian support for marriage equality was shown through a national Galaxy poll, taken in August, which revealed that 53 per cent of Christians support the right of same-sex people to marry. And the Christian support for marriage equality is not limited to branches in New South Wales and Victoria. Rev. David Hunnerup, a Launceston social worker and ordained minister, recently wrote an article entitled *Gay Marriage and a Dissenting Christian*, to show that other Tasmanian Christians supportive of marriage equality are not without a voice.

I have a relatively simple view of marriage. It is about two people who deeply love each other, declaring that love publicly and declaring a desire to spend their lives together. It is about two adults in a modern progressive society being able to choose whom they love and being able to make the choice to marry that person if they so desire. Like everybody in this House, I abhor homophobia, bigotry and discrimination of any kind, and not allowing two adults who love one another the right to marry if they choose is simply that, discriminatory. Same-sex couples are part of our society. They always have been and they always will be. We all know that same-sex people are represented in all areas of our community, business leaders, teachers, firefighters, doctors, High Court judges, members of parliament.

Therefore, Mr Acting Speaker, I support the motion. It follows logically that this Government, a government that has for many years protected and enhanced the rights of same-sex people, would support this motion. I hope the debate we are having today will send a strong message to my Federal colleagues in Canberra that it is time to further the conversation about what marriage equality means for all Australians. I understand the power of ignorance. I understand the denial of rights of expression. I understand the desire for fairness and equality in the eyes of the law and, above all, I understand that expressing love through marriage should know no boundaries. Mr Acting Speaker, to borrow a famous phrase, 'marriage equality - it's time'.

Government and Greens members - Hear, hear.

[2.50 p.m.]

Mr O'HALLORAN (Braddon) - I come from Ulverstone. I was one of a large group of people who protested against homophobic rallies in that town a couple of decades ago. Ulverstone is now a very different place from those dark days when it gained national and international attention, all for the wrong reasons. Ulverstone is now, I am proud to say, a place of tolerance and a place of inclusion.

Firstly, a bit of history. In 2003 a majority of Liberals supported the equal recognition of same-sex couples in all Tasmanian laws, including known-child adoption. In that year, a majority

supported the establishment of Australia's first civil partnership scheme. In 2009, a majority of Liberals supported the legal recognition of co-mothers of children born through fertility treatments like IVF. In 2010, a majority supported the legal acknowledgment of overseas same-sex marriages in Tasmanian law. In 2011, the Liberal Party moved to retain criminal sanctions against same-sex surrogacy while removing these sanctions against heterosexual couples and singles.

It is time to get serious about tackling discrimination against lesbians, gays, bisexual and transgender Australians. The Greens will continue working to achieve equality and better protection in our laws and an end to discrimination based on sexual orientation and gender identity. How often do we hear, 'I believe in non-discriminatory practice - but. I believe in principles of fairness, tolerance and acceptance - but. I believe in marriage equality - but.' There are no ifs and buts. Either we are fair and non-discriminatory or we are not. Why should we block loving couples from entering into a partnership called marriage. Who are we to say that same-sex couples would not make loving parents? Is it fair to discriminate on the grounds of one's sexuality. Of course it is not. It is time that we recognised and valued difference and diversity in all its forms.

Young people are inherently vulnerable to bullying and discrimination, particularly those who are discovering their sexuality. We know rates of suicide and depression for young gay Australians is significantly higher than for their peers of similar ages. We need encouragement and an environment of inclusion and acceptance, not of exclusion and discrimination. The momentum for Australia's outdated marriage laws is growing day by day. At the moment it is not the community that are behind this or not behind this; it is politicians. Polling shows 62 per cent of the public, including 80 per cent of 18- to 20-year-olds, already get the need for change. I am pleased to see at least one of the old parties is ready to embrace change which is now inevitable.

Australia's marriage laws are unfair, discriminatory and need to be changed. Current laws deny same-sex couples a very basic human right. Australia is lagging behind the rising number of countries who have already legislated to get rid of this discrimination, in many cases overcoming historic and religious opposition to the principle of marriage equality. If those countries can change their approach then we can do the same in Australia.

There are thousands of couples waiting for their right to equality to be recognised by the Australian Government. Real reform needs real leadership, not blanket opposition to equal rights for all Australians. Others, including apparently those on my right, seem wedded to views of another era and to the views of other groups. I note that Jim Wallace, the head of the Australian Christian Lobby, has been quite vocal in opposing marriage equality. This former SAS commander used Twitter on Anzac Day this year to say, 'I just hope as we remember, the Australia they fought for was not gay marriage and Islam'.

I would like to point out it is not only gay marriage holding back equality for Australia's LGBTI communities. There are inconsistent laws across Australia whether we are talking about discrimination on the grounds of marriage, age of consent, laws regarding parenting, offensive behaviour laws and antidiscrimination laws. I am proud to be a member of the Australian and Tasmanian Greens in taking a leadership role speaking out in favour of marriage equality. Hopefully this debate here today will send a clear message and will lead to a fairer, more inclusive and more just Australia.

[2.55 p.m.]

Ms O'BYRNE (Bass - Minister for Health) - Mr Acting Speaker, I rise to speak to this motion that the House supports same-sex marriage in Tasmania and calls on the Federal Government to change Australia's marriage laws, a position I held and argued for when a member of the Federal Caucus.

We are dealing with a complex set of understandings when we consider the question of same-sex marriage, but there is a simple ethical principle that should underpin our answer to that question, a principle that was central to the ALP supporting same-sex marriage at its recent State conference again, a fundamental principle that is the core of this motion. The principle that should be front and centre in the debate is that same-sex marriage provides equality for all. It is vital that we challenge ourselves to uphold this principle. Only if we do will we see that people in our society are able to live as what philosopher Raimond Gaita, in a 2005 lecture at the Castan Centre for Human Rights, described as acknowledging one's full humanity.

We live in a pluralist democracy, one that sees difference and diversity as core values. In order to answer the question, should people of the same sex have the right to be married, we need to ask of ourselves a core question of equity. Should people who love each other and who want to commit themselves to a partnership that has a public and legal nature be denied that right because they are of the same sex? Gaita noted that when Australia was first settled, the colonising forces had no compunction about seizing lands from Aboriginal people. They saw it as their right to that land and that the right of the Aboriginal people to this land was less important than their right to seize it. He also proposes that this attitude evolved to allow white people the right to seize the children of Aboriginal people, as their rights and their children's were less than the rights of white people. I am using racism as an analogy here because when we deny people fundamental rights in a pluralist democratic society we see their humanity as somehow being less than ours. I firmly believe that everyone has the right to full humanity.

Mr Hidding *interjecting*.

Mr ACTING SPEAKER - Order.

Ms O'BYRNE - In the same way, denying people in our society the right to partner under law with another human being in marriage is denying them access to full humanity.

If we think that people should live under different rights, we take away a core tenet of our democratic beliefs and a core pillar of our society's values. Equality for all is about everyone, regardless of who they are, what their sexuality is or other difference. Everyone should be able to experience the legislated rights that others have within our society, otherwise we have an 'us' and 'them' society. On a personal note my marriage to my husband would have been illegal under the country of his birth up until the early 1990s when the marriage acts there were repealed with the removal of apartheid. When our grandmother married someone outside the Catholic Church she was forbidden access to the church and told that her children were illegitimate. The world moves on as we become more progressive and more inclusive.

I note that this debate has already drawn out attitudes that reflect an ugly 'us' and 'them' mentality. This morning on local radio one caller criticised the Government for wasting time discussing the same-sex marriage motion. The question is whether homophobia is like racism; is it like discrimination on the basis of disability? I believe it is when it denigrates those things that make us human, and our sexuality is a fundamental part of being human.

Luckily community attitudes to difference have shifted away from such offensive views, but with those shifts rights have been legislated to ensure acknowledgment of people not as being less than or having diminished rights but to having rights that will enable them to have full humanity. While some objections to same-sex marriage may be based on views about sexual behaviour, other objections are not based on this but raised on the grounds of marriage only being possible between a man and a woman. For me this distinction is just as offensive. Again, it is argued that these marriages are potentially being damaged or downgraded by same-sex unions and that same-sex partnerships should be acknowledged formally through other legal means or by the use of other language or descriptors. Gender has not been a defence of any action that discriminates against Australian laws for many years and there is no justification for it being a defence now. To implicate it as a reason for not agreeing to same-sex marriage is ludicrous. It would make women not able to marry women because they were women, men not able to marry men because they were men. We do not make a legal argument on these grounds in relation to any other aspect of Australian life. It means that women who want to marry other women, men who want to marry other men, are considered somehow less human in a formal legal sense because of their sexuality. I believe, and I know that many from all sides of politics agree, that we have left and should leave discrimination behind in our laws. It is a point of justice that is essential to this debate. Again I make my point that when we do this we are seeing others as less than, as not as fully human as we are.

I am concerned by some of the arguments raised by those opposite that the House's debate on this crucial matter is unnecessary because it will be unable to be enacted as this is a national matter. To say that we are wasting the House's time as we may be debating it again in the future is to diminish this important issue for so many Tasmanians. We need this debate. This form of debate is in fact what this House is about. It is the place where such issues should be discussed with passion and intellect. To deny that is to deny the responsibility of political representatives to discuss the opinions and rights of many Tasmanians on important matters of public concern.

Mr Acting Speaker, our society has come a long way from the times when some lost their land to others because they had fewer rights or were less human. Sharing the same sex as your partner should no longer be a difference that makes such a difference. It is timely and appropriate that the most formal intimate relationship in our society should be open to couples who wish to have their relationship acknowledged. It is now time that we should uphold and legislate to ensure that people who choose to enter into formal, loving partnerships under law can do so as marriage. I call on this House to support the human rights of all Tasmanians and to deliver a strong message that same-sex marriages should no longer be denied to members of our community.

I support this motion and call on all members of the House to support it in order that we send a clear signal to the Parliament of the Commonwealth of Australia to amend the Commonwealth Marriage Act 1961 to provide for marriage equality.

Greens and government members - Hear, hear.

[3.01.p.m.]

Mr BOOTH (Bass) - Mr Acting Speaker, I stand here today proud to support this motion brought to the House on behalf of the Tasmanian Greens by our Leader, Nick McKim, and proud to speak and be counted amongst those of the progressive side of this House who here today have made some magnificent speeches rejecting all forms of discrimination. I absolutely reject and do not accept discrimination on any basis whatsoever, whether it be sexuality, age, gender, ability,

ethnicity, political belief or any other matter. These forms of arbitrary discrimination are some of the cruellest and most divisive things that occur in our community. They fester and engender hatred and drive people to alienation and, in some horrible circumstances, suicide.

In my view, it is absolutely unacceptable in a modern democracy that we would even contemplate preventing any person having the choice to marry the person they love. It is not the prerogative of this House to prevent people being able to do what every other person that those on the right deem to be normal in their view of life in the universe. Well, I say to those people that you are wrong, you are patently wrong. Your views are offensive, oppressive and unacceptable and it is little wonder that the Liberal Party in Tasmania now sits in opposition for 12 years. It is little wonder that the Leader of the Opposition, Mr Hodgman, made a speech unbefitting of a leader of a political party. It was a shameful, divisive, reactionary, unpleasant speech that made me feel ill to even hear him utter the words that he spoke. That a man of that age and that generation could stand in this place and purport to be the leader of a political party and express such divisive, hideous language in this place -

Mr Hidding - Give me an example of what made you feel sick.

Mr O'Byrne - He thinks human rights are waste of time - how disgraceful is that?

Mr ACTING SPEAKER - Order.

Mr BOOTH - He is a man who clearly does not understand what discrimination means, a man who in my view has abused his position to represent people. To come into this House and to utter words of discrimination against people that are clearly hurtful is just completely unacceptable and it makes me feel ashamed to be a Tasmanian or an Australian to think that that sort of eighteenth-century thinking still exists in this great country of ours.

In stark contradiction to the cowardice shown by the Leader of the Opposition, who simply hides behind his own fear of life and the universe as opposed to courage, determination and strength, I would like to pay tribute to Rodney Croome, whom I have watched over many years courageously fight to deliver justice to gay people in this State. I think it has been a courageous battle and I take my hat off to Rodney and all his friends. It is a very sad day that brave people like this should have to put with this nonsense and it is just completely unacceptable. It is the basis of war and disputation in society. It is just one of the most corrosive, ridiculous, absurd debates that should not be occurring in a modern democracy and it just has no place in a modern world.

I really think that those today who are going to oppose the simple principle of marriage equality need to go and look these people in the eye and look at themselves in the mirror and think about what it is they are doing and about the hurt they are causing by simply supporting the continuation of this discrimination. It is just completely foreign to me. I do not understand it and there is no place, in my view, in a modern democracy. It is way past time that this discrimination is removed from our statute books and any other form of discrimination that exists within any law or in any institution or workplace. To discriminate against people on any of those grounds is just shameful and this is something that must be overturned. It will be overturned, no matter what conservative people may say, because Australia is fundamentally a caring society. We are made up of a good people from a wide range of different religious, sexual and racial types or whatever.

I commend this motion to the House. I congratulate all those who have spoken in favour of this and will support it. Once again, I congratulate all those people who have had the courage to stand up and be counted and I encourage them to continue with this fight. I am sure they absolutely have the support of all members of this House who are going to support this motion today to ultimately achieve their goal.

[3.08 p.m.]

Mr O'BYRNE (Franklin - Minister for Infrastructure) - Mr Acting Speaker, I rise to speak in support of this motion and in support of marriage equality. In doing so, I would like to acknowledge all those activists in the Speaker's Reserve and in the audience today and on the webcast, congratulate them for their advocacy and activism and wish them well. This road has not finished yet, there is a fair bit to go, but I thank them for their generations of campaigning and wish them well in the road ahead.

I rise as a proud member of the Tasmanian branch of the Labor Party to speak in favour of this motion and I am proud to speak in support of our platform and in support of the principle of marriage equality. I believe that everybody is entitled to equality, fairness, dignity and respect, regardless of their sexuality.

Mr Bacon - Hear, hear.

Mr O'BYRNE - That is why I ran for office. I ran to give voice to these values and that is why I stand here today, because every day that we allow the Marriage Act to exclude same-sex couples is one more day that people are discriminated against in a way that fundamentally affects their lives. The failure of our society to treat same-sex couples as equal to all others under law is a fundamental denial of our basic human rights.

I stand here as a member of a political party that has a proud history of giving effect to the principle of equality and ensuring discrimination is not sewn into the fabric of our society. The Tasmanian Labor Party has done a lot to support this principle when it comes to removing discrimination from our laws. Unfortunately, as a political party and as a community, we have failed this test when it has come to the marriage laws of Australia. Our continued support for the current Marriage Act as it stands has allowed views of prejudice and in some circles allowed the acceptance of inequality to take hold.

I therefore welcome the opportunity today to stand in support of a change of this legislation and call on the Federal Government to support the principle of equality and join our community in bringing about a definition of marriage that is open to all people regardless of one's sexuality. As a member of the Tasmanian Labor Party I fundamentally believe that people must be entitled to respect, equality and dignity. I therefore believe that to do anything but amend the Marriage Act is unfair and unreasonable. A continual denial of these rights says to the community that lesbian, gay, bisexual, transsexual and intersex couples are not equal and their relationships are of a lesser value. They are real people with real hearts and their love for their partners is just as precious as a love between a man and a woman. We must not give these couples special treatment or anything more than anyone else. We must not construct civil unions for specific couples. All we must do is give all people, regardless of their sexuality, the same rights to be treated equally and to be treated with the same respect as everyone else in society. They pay their taxes, they are law-abiding citizens and are a part of our community.

There are those who say that this motion and the debate today means that we are getting our priorities wrong and that there are much more important things to discuss. There are no more important things to discuss than basic fundamental human rights. We are here debating these issues in concert with a whole range of other things. In my ministerial portfolio we have launched the Economic Development Plan, we have launched the Small Business Strategy, we have brought in legislation to protect workers in mines and to provide fair compensation to asbestos sufferers. We are overseeing the biggest infrastructure spend Tasmania has seen in generations. We are doing this and we are standing up for human rights.

There are those who will continue to oppose equity and fairness and promote ongoing discrimination based on sexuality. Whether they like to admit it or not, they continue to provide oxygen to those people who wish to spread hate and misunderstanding. Those who choose to link homosexuality to acts of immorality, polygamy and even paedophilia, and those who suggest that homosexuality causes harm to families and children in society, are all giving air to promote hurtful messages by those who support legislation which says to certain members in our society that they are worth less and their love is worth less. The Marriage Act currently empowers homophobia and it needs to be changed. Statistics show that if you are gay you are much more likely to experience self-harm, depression and up to 14 times more likely to attempt suicide. Labor has funded programs and changed legislation to combat homophobia but it must go further by changing the Marriage Act. Changing the Marriage Act will help break down homophobia and provide same-sex couples the opportunity to fully participate in society and receive the same protection and recognition under the laws regardless of sexuality and gender identity. Either all human beings have the same right or none of us have any.

I would like to quote the Reverend Martin Luther King, a great civil rights campaigner, when he said:

'We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects us all indirectly.'

I commend the motion that I, as a proxy delegate to the ALP national conference in December this year, will continue to fight for marriage equality because as a community we should all be allowed to celebrate love.

[3.13. p.m.]

Mr STURGES (Denison) - I rise today with great pride and honour to support the Greens' motion. It really is a new paradigm that we are in, that I rise in this place to support a motion put forward by the Greens. It is a very significant day and the importance of the action being taken should not be underestimated. I find it disingenuous of the Leader of the Opposition, who is reported to have said that this is a motion of no consequence. It is of significant consequence. It is a day where we move forward to break the discrimination. It is a great step for humanity. It is a motion of great significance and, dare I say as I sat there and listened to a contribution from the Leader of the Opposition denigrating the motion, I thought to myself, 'Well, small steps, small steps.' I acknowledge the activists with us today and the amount of work and the small steps that they have taken over a long time to travel a very rocky and very arduous journey. I commend you for the work that you have undertaken, I support that work and I will continue to support that work.

Now other speakers have more eloquently put their thoughts on the record, so I do not want to go back over what they have said. I wrote a very comprehensive speech as I sat here and I

thought, well, I had a Christian upbringing as a child and I appreciate the fact that I did. My mum, who is 91, is an elder in her church, and she has been going to the same church for over 80 years.

Mr Hidding - Still is? Lovely.

Mr STURGES - Yes, she is a very lovely woman. But, for whatever reason, I have chosen not to continue as a practising Christian per se, but I would like to think that I live my life by the Christian ethos that I was brought up with and that ethos tells me that I must have compassion for my fellow human beings and I must show tolerance, I concede that I do not get it right all the time, that I must respect other people in my community, I must show them and treat them with dignity. And, most importantly, I should not discriminate. I can disagree, and Mr Booth quite rightly said that we should not be discriminated against for our political beliefs, for our affiliations to various organisations, for our sexuality, for whatever belief that we have. We are entitled in a democracy not to be discriminated against, to be treated as equals and to have our voice heard. That is a fundamental tenet of the democratic society in which we live. We can disagree, and that is great that we can disagree, but let us do it in a civilised way -

Mr Hidding - Like today? Do you want all the words?

Mr STURGES - Thank you. And let us do it in a civilised way and recognise that we are dealing with human beings. I live north of the flannelette curtain, as everyone knows, and I am a very proud, lifelong resident of the northern suburbs of Hobart.

Mr Hidding - We've seen you twitching the curtain.

Mr STURGES - And each week at one of the churches out there on the main road in Montrose I have a look at the quote that they have up, the quote of the week. This week as I drove past the quote is 'Doing the Right Thing is Never Wrong', and sometimes to do the right thing does not necessarily mean - and I do not want to get into an argument about polls and statistics and what-have-you - that you have to have the majority support, that you can bash up on the small guy all the time. Doing the right thing is exactly that. Showing some humanity, respect, tolerance and compassion for other people's feelings, and that is what this motion is doing today.

I acknowledge that there is a jurisdictional issue, but this is the Tasmanian House of Assembly. What better place for us to express our point of view and have that point of view heard by the Federal Government? So this is the right place for us to be doing it, not debating it on the airwaves or through the media, but here in this Chamber.

I am very mindful that others need to speak. I had a bit of a look, and I want to quote what I think are two significant quotes from, without doubt, one of the world's greatest human rights activists, and I will tell you who he is when I have finished. The first one:

'When will we learn that human beings are of infinite value because they have been created in the image of God, and that it is blasphemy to treat them as if they were less than this, and to do so ultimately recoils on those who do this. In dehumanising others they are themselves dehumanised. Perhaps oppression dehumanises the oppressor as much, if not more, than the oppressed. They need each other to become truly free to become human.'

Mr Best - Hear, hear.

Mr STURGES - There is a second, very small quote that I will make and conclude my contribution.

'Gay, lesbian, bisexual and transgender people are part of so many families. They are part of the human family. They are part of God's family.'

The gentleman who said that is, in my opinion, one of the world's greatest human rights activists, Archbishop Desmond Tutu, and I think those quotes summarise my very strong feelings on this matter.

Mr Acting Speaker, I am mindful that -

Mr ACTING SPEAKER - So am I - mindful of the two more speakers.

Mr STURGES - I am mindful that there are two more speakers. It is with great pride and with great honour that I stand here today. Mark this date as a significant day in the political and human rights calendar of Tasmania and support this motion.

Greens and government members - Hear, hear.

[3.21 p.m.]

Ms WHITE (Lyons) - I would like to start with a quote from a constituent's correspondence to me that I received earlier today.

'The true test of just how civilised any nation is lies in how it treats all its citizens, particularly minority and disadvantaged groups. By denying same-sex couples a civil right to marry, this country sends out a clear message that some people are more worthy than others.'

I am very proud to be able to stand here in support of this motion today and I am encouraged by the broader community support for marriage equity. Particularly it heartens me to know that many younger generations of Tasmanians support equality for all people.

I would particularly like to recognise members of the Youth Parliament who are in our Public Gallery today and acknowledge the fact that they passed a motion in support of marriage equity just a fortnight ago.

I would also like to recognise the President of Tasmanian Young Labor, Stuart Benson, who is sitting in the Speaker's Gallery, and other members of Tasmanian Young Labor who are in the Gallery today, for it was Tasmanian Young Labor who sponsored a motion in 2009 to take to the State Labor Conference in support of marriage equality which of course was supported and we reaffirmed that support this year at our State Conference.

It is progressive young people like these coming through the ranks here in Tasmania who I believe are showing a great way for a civilised society. It really does hearten me because not only do these people acknowledge that inequality exists but they are determined and passionate enough to do something about changing that so we can address that inequality.

I recognise that the Marriage Act is administered under Federal law. However, we as a State Parliament can send a clear message to our Federal colleagues in support of marriage equality and call on the Federal Parliament to amend the act to recognise same-sex marriage. We have colleagues attending the national conference later this year where I hope we can send a clear message that as a national Labor Party we support marriage equality.

I am very proud to be a part of the Labor Party standing here today in support of this motion and very proud to be able to say that on this day I was a member of the Tasmanian Parliament. I will not take any more time as I know my colleague would like to make a contribution as well.

[3.24 p.m.]

Mr BEST (Braddon) - Mr Acting Speaker, ask just about anybody and they will tell you that they have nothing against homosexuals. Just name the situation and ask and they will say that gays should have the same rights to housing, jobs, public accommodation, equal access to government benefits and equal protection to law. But as far as marriage is concerned we know that this is not the case.

During the last election I seriously had not really thought about the issue of gay marriage too deeply until I was challenged on it by a Queenstown resident who took me by surprise. This proud west coast mum asked what I thought about homosexuality and I replied that I supported sexual relationships between consenting adults. She then asked me, 'What about gay marriage?' I really was not sure what to say, to be honest, so I said, 'I'm not sure, I haven't really thought about it. I tend to think marriage is between a man and a woman.' Then she said, 'Well, I don't, Brenton. My son came out a few weeks ago to announce he was gay and a very brave thing he did and, as his mother, why should I be deprived of going to my son's wedding?' I was left speechless, I did not know what to say to that mother in Queenstown.

She made me think about it. What right did I have to stop her from going to her son's wedding? What right do I have to stop her son from getting married? It is clear and pure discrimination. The answer to this question is that I have no right because it is a matter of civil rights. The fear of gay marriage, having thought about this now, from that discussion to this date and having read up on certain things, I believe is no different to the fear of interracial marriage. I think the arguments are very much the same.

I want to quote from Professor Kim Forde-Mazrui. He joined the law faculty of the University of Virginia in 1996, was promoted to full professor in 2001 and teaches constitutional law, employment, discrimination, criminal law and race and law. His scholarship focuses on equal protection, especially involving race and sexual orientation. His publications have considered what role race should play in placing children for adoption, how to select racially and demographically diverse juries and the list goes on. He is a well-researched professor and he recently presented a paper entitled 'Gay Marriage Opponents Mimic Objections to Interracial Marriage', and it says:

'Opponents of gay marriage use many of the same arguments as those of interracial relationships did before Loving versus Virginia outlawed state bans on interracial marriage in 1967.'

I quote Professor Kim Forde-Mazrui:

'If religious, scientific and moral opposition to interracial relationships, sex marriage and adoption were wrong, notwithstanding the sincerity and good faith of those who believed in the opposition, then are the same arguments any more justified when they are used to oppose same-sex relationships?

It seems that the similarities at least shift the burden. We have tried this before and we have learned, in hindsight, this is wrong.'

We know it is wrong. The Opposition know it is wrong, at least most of them do, and even the ones who talk about their religious opposition know in their own hearts it is wrong because as everyone else has said here, at least on this side of the House, this is about discrimination. It is not fair to prevent people from having equal access to marriage, the same as everyone else. We are not talking about something that someone should have more than others. We are talking about creating a fair society and preventing the discrimination that has been going on in the past.

I support this motion. I believe it is a civil rights matter. I vote yes to the Queenstown mother being able to attend her son's marriage. I vote yes to David Foster being able to attend his daughter's wedding to her lesbian partner. I vote yes to marriage and equality.

Greens and government members - Hear, hear.

[3.28 p.m.]

Mr McKIM (Franklin - Leader of the Tasmanian Greens) - Mr Acting Speaker, it is clear that this motion will pass in a few short moments so I want to take this opportunity to once again place on the record my thanks and respect to all the members who are supporting this motion, particularly members of the ALP - there have been some brilliant and meaningful contributions from Labor members to this motion - and also to thank Young Labor who have pushed this issue so hard through the Labor Party for a couple of years now.

Finally, before we go to the vote, I want to once again reiterate that this is a historic day for marriage equality in Australia. It is a big step forward for a State like Tasmania which has come so far on this issue in the last 15 years, from the bottom of the pack to now leading the way at a national level. All Tasmanians should be very proud of the vote that is about to be taken in this House which is a vote to retrench and end the discrimination that is encapsulated in the Federal Marriage Act. It is, as members have said, a matter of fundamental human rights and today Tasmania can rightfully be proud at the vote we are about to take.

Time expired.

The House divided -

AYES 13

Mr Bacon
Mr Best
Mr Booth (Teller)
Ms Giddings
Mr Green
Mr McKim
Mr O'Byrne

NOES 9

Ms Archer
Mr Brooks
Mr Ferguson
Mr Gutwein
Mr Hidding
Mr Hodgman
Ms Petrusma

Ms O'Byrne
Ms O'Connor
Mr O'Halloran
Mr Sturges
Ms White
Mr Wightman

Mr Rockliff
Mr Shelton (Teller)

PAIR

Mr Polley

Mr Groom

Motion so agreed to.

Applause from Gallery.

**WORKPLACE HEALTH AND SAFETY AMENDMENT (RIGHT TO WORK
WITHOUT HINDRANCE) BILL 2011 (No. 30)**

Second Reading

[3.35 p.m.]

Mr ROCKLIFF (Braddon - Deputy Leader of the Opposition - 2R) - Mr Acting Speaker, I move -

That the bill be now read the second time.

The intent of the Workplace Health and Safety Amendment (Right to Work Without Hindrance) Bill 2011 is twofold. One is to protect the right of workers to undertake their duties without hindrance; two, to improve the protection and safety of workers and other persons by making it an offence to approach a workplace with the intention of hindering access for workers or causing a fear, risk or hazard or to damage equipment in a workplace. Put simply, this intent of the bill is to legislate against protestors from blockading and preventing workers from accessing their worksites and from undertaking legitimate and legal work. The harsh reality is that anyone who intentionally or recklessly disrupts a workplace, endangers safety or destroys, damages or hampers the operation of workplace equipment is not only potentially putting lives, including their own, at risk, they are also affecting the ability for people to make a legitimate living. There can be no doubt that acts which create a fear or apprehension of danger to the health and safety of people at a workplace, or create the appearance of such with the intention of causing a disruption, risk or hazard to work at that place, are unacceptable.

This bill is an amended version of a similar bill, one introduced and debated in 2009, which attracted criticism at the time on the grounds that it could inadvertently have made protected strikes and pickets illegal. That, of course, was clearly never the intention. I therefore want to make it very clear at the outset that the taking of any lawful industrial action under the provisions of the Fair Work Act 2009, a Commonwealth act, does not constitute an offence under the provisions of this bill. The bill now specifically allows for protected industrial action under the auspices of the Commonwealth Fair Work Act of 2009. That criticism was particularly made by the member for Franklin, the Greens' Leader, Mr McKim. Of course we have listened to the concerns of Mr McKim and have inserted a clause to ensure that that matter is completely cleared up, not that we expect the Greens' Leader will support this bill now, even though we have made those changes.