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Marriage Equality Amendment Bill 2013

Second Reading

SPEECH

Thursday, 12 November 2015

BY AUTHORITY OF THE SENATE

SPEECH

Date Thursday, 12 November 2015	Source Senate
Page 3	Proof Yes
Questioner	Responder
Speaker Fawcett, Sen David	Question No.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (09:44): I also rise to contribute to debate on the Marriage Equality Amendment Bill 2013. I would like to start by affirming the position that I have put in this chamber before, that I do not support same-sex marriage and I will not be supporting this bill. That does not, however, make me a homophobe. Nor does it mean that I speak with hate when I state my position. I respect Senator Simms for his view and for his support for this bill. The fact that I choose to disagree with him does not make me hateful and it does not make me homophobic.

I would like to go to some of the issues that were contained in Senator Simms's speech because I think it is important that we keep a broad perspective of what is happening around the world. We have been accused of lagging behind a number of countries. Ireland and the US in particular were quoted. But there are also other countries such as Austria, where the parliament recently voted overwhelmingly against motions on same-sex marriage. In other nations around the world, such as Italy and France, we are seeing large public protests around those laws.

Probably most specifically, though, in July last year the European Court of Human Rights, sitting as the Grand Chamber, dealing with a case that goes to the Convention on Human Rights, found that there was no consensus in Europe on allowing same-sex marriage. In the case which was being considered, they found that there was no violation of the European Convention on Human Rights. The court found it was 'not disproportionate' that a same-sex couple should be in a registered partnership, as opposed to a marriage. In fact, regarding article 8, the court reiterated its case law, which said the convention 'cannot be interpreted as imposing an obligation on contracting states to grant same-sex couples access to marriage'. They also said that article 12:

... secures the fundamental right of a man and woman to marry and to found a family. Article 12 expressly provides for the regulation of marriage by national law. It enshrines the traditional concept of marriage as being between a man and a woman ...

According to the statements of Senator Simms and others in this debate, that anyone who opposes same-sex marriage is full of hate and homophobic, the European Court of Human Rights is homophobic and is issuing hate speech. But what it demonstrates is that you can have a debate around these issues. You can have a respectable difference of opinion. Any attempt to shut down opponents of a view is simply undemocratic. Australia is proud, as is much of the Western world, of the fact that we are a liberal, plural, secular democracy. 'Plural' means that you have a plurality of views. People are free to speak of different views. That does not mean that you hate those whose views you oppose or that you disrespect them personally. It means you have different views, and that is the basis of a plural society.

Senator Simms said in his speech that this movement 'will not be silenced'. That is fine. I am happy. That is their right, to not be silenced. But, likewise, it is the right of those who hold a different view to not be silenced. So I find it disturbing when I see attempts to silence those who hold a different view. That attempt occurs in different ways. Partly it is through labelling—calling people bigots—or making an assumption that, if you do not support same-sex marriage, you are homophobic or full of hate, right through to using legal proceedings.

I am not a Catholic, but I noticed the Catholic Church issuing a booklet which supported the traditional view of marriage and sending that to families who had enrolled their children in a Catholic school. Action from a discrimination perspective has been taken against the Church for putting forward their view of the traditional marriage, which is law. It is accepted, and yet legal proceedings are being taken against them. That is trying to silence people who hold a different view. In a plural society, where we value freedom of speech and in this case freedom of religion, we need to allow people to clearly articulate—respectfully, courteously but confidently—their views. To have labels put upon them that somehow they are bigots or homophobic or that their speech is hate speech just because they express a different point of view is trying to silence the debate.

From the coalition's perspective, we had a good example of how that debate can be conducted respectfully. We have people within the coalition who have differing views. We have very strong proponents of same-sex marriage. We have people who hold dearly to support for traditional marriage. And we had a long and respectful discussion in our party room where people from each side of the debate were able to stand and talk and put their points of view. I do not normally talk in public about things that occur in the party room, but in this case I will make an exception to say that there was no name-calling, there was no hate, there was no belittling and there was no disrespecting. People put forward their views, and that is the essence of a democratic society where we respect the fact that it is a plural society, which means there are groups with different views.

A plebiscite was where the party room came to. We decided at the end of the day that it would be best for the Australian people, given the deeply held views, to have that discussion. There is an assumption implicit in what Senator Simms said and what others have been saying in the last few days—in fact, since the plebiscite was announced—that the Australian community would descend into an orgy of hate and homophobic speech. I acknowledge that there are some people out there who hold what I would consider to be unhelpful and hateful views. I have seen some of those people with placards. Senator Simms, can I say I share your view. I do not think that is helpful or respectful. However, that does not represent the majority of Australians. Australia is a land of people who are decent and where there is common sense, and it is my experience that extremes tend to be suppressed and shouted down by the majority. You just have to look in recent days at sporting fans and name-calling and other things where we see the community moderate those extremes. There can be discussion and people can have their point of view put forward. At the end of the day, while Senator Simms says that we have had poll after poll, if we just accepted polls then we would never have elections. We would assume, based on today's poll, that the coalition should be in government, Labor should stay in opposition and the Greens should always stay a minor party. If we are going to take that logic, let us save some money and have no more elections. Let us just have Newspolls and not move forward.

But sometimes polling does not get it right, and that is why we have elections. The polls are an indication from a small group of people who have been rung by a pollster and who respond to particular questions that are put to them. Even on this issue of same-sex marriage, depending on the question you ask you can get different results. I do not accept the argument that just because polling indicates one thing we should therefore assume that is the will of the Australian people. A plebiscite gives an opportunity for the Australian people to have the discussion, to reach their own view. One of the things that we can decide as a parliament is how that plebiscite should be run, whether it is binding or not, whether everyone should participate or not. They are important things to get right. With the Irish referendum, because voting was not compulsory the number of people who turned out did not represent the whole population and so, whilst a majority of those who turned out voted for same-sex marriage, you cannot say that a majority of the Irish people supported it. Does that make that process invalid? It depends how you determine a referendum. But here in Australia we have the opportunity to say that the plebiscite should be compulsory and that it should be binding. I think that is what we should do.

The challenge, I would put to the Greens and to others who support the concept of same-sex marriage, is that if we have a plebiscite and it is binding and it says yes, then you would need to work with those who do not support same-sex marriage to put in appropriate protections for freedom of each speech, freedom of religion and the expression of those things. Equally, if the plebiscite said no, the challenge for the Greens and others would be to accept that and say that that is what the Australian people have said. You cannot have your cake and eat it too. If you want it binding in expectation that it will say yes, you also have to accept that if it says no then that is the will of the Australian people. I note that here in the Senate we have had motion after bill after motion put forward and time after time either it has not come to a vote or where it has it has been defeated, and yet they keep coming back. If there is a plebiscite and it says no, I would encourage those supporters to recognise that—just like the European Court of Human Rights has said that there is not an abuse of human rights, that there is an equality in terms of what people get through civil partnerships—that is a path we should explore and make sure people can be respected and valued within that framework.

Certainly from the coalition's perspective we have seen that we do not believe we are lagging behind. We believe that you can have a respectful discussion. Nobody in this debate should be silenced. A plebiscite is a way for us to allow the Australian people to answer the question about how they would like to proceed, how they would like to see marriage in this country. Currently the Marriage Act provides that ministers of religion, whether they belong to a recognised denomination or an independent religious body, are not obliged to solemnise any marriage. We need to make sure that those sorts of independent decisions can continue, not only for people in religious organisations but even for people of faith who run other businesses or services. Whilst it is true that a

plebiscite, if conducted separately, would cost money, there are options for doing it in conjunction with other votes, with other elections. This is an issue that is clearly important to people in this place and to people in the community, and the concept of having a plebiscite involves giving to the people the opportunity to exercise that democratic right to have the discussion in a respectful way and to bring back to the Australian people, through a vote, which way they would like to see this nation go.

In conclusion, I will not be supporting this bill. This is one of a number of bills on this topic that I have not supported. I am a strong supporter of traditional marriage. That does not mean in any way that I am homophobic, or that I speak with hate. I know and deeply respect many people who I regard as friends who are same-sex attracted, but my world view is that marriage is between a man and a woman. On behalf of all those in Australia who hold that view, I state here again in this place that, just like the supporters of same-sex marriage do not want to be silenced, nor do those people who hold this view. This parliament should be rejecting any sense or emotion or discussion that those who hold a different view to the supporters of same-sex marriage are somehow full of hate or bigotry, because that is simply not true. I will not be supporting this bill.