



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

BILLS

**Marriage Amendment (Definition
and Religious Freedoms) Bill 2017**

Second Reading

SPEECH

Tuesday, 5 December 2017

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Tuesday, 5 December 2017
Page 56
Questioner
Speaker O'Brien, Ted, MP

Source House
Proof Yes
Responder
Question No.

Mr TED O'BRIEN (Fairfax) (17:35): The Australian people have spoken, and what they've said in an overwhelming majority is that they want this parliament to legislate for same-sex marriage. Sixty-one point six per cent of Australians who participated in the postal plebiscite—or postal vote, if you like—voted yes to same-sex marriage. In my seat of Fairfax, 64.3 per cent of people voted yes. With nearly 80 per cent of all eligible voters participating in the process, I think we can all be sure that this result is indeed fair and is indeed conclusive. Now it falls to this parliament to honour the will of the Australian people and to legislate for same-sex marriage.

Changing the definition of marriage is more than a legal issue; it's a social issue—a social issue that holds great cultural significance. This is why I have been, from the get-go, so supportive of a plebiscite as the best process to resolve the matter. I want to acknowledge the leadership of both former Prime Minister Abbott and Prime Minister Turnbull for instigating and delivering on a commitment to empower the Australian people to have their say. The reasons I have supported the plebiscite process so strongly are: firstly, it meant the conscience, the view, of each Australian on the issue of same-sex marriage could be treated equally; secondly, by reflecting the will of the people, the ultimate outcome would have the greatest legitimacy; and, thirdly, experience around the world told us that a public vote on this matter creates greater social cohesion compared to a parliamentary vote alone. With the knowledge that same-sex marriage is a social and cultural issue as much as it is a legal one, it was essential that we, as the government, ensured maximum public engagement so the issue could be truly resolved not just here in this parliament but in our homes and our communities. And that is precisely what we have done.

I think it's only appropriate for me to also congratulate my colleagues in this House who prosecuted the case for 'yes' and also those who prosecuted the case for 'no'. They did so with honour, dignity and respect. They did so in the spirit of the very rich, deliberative democracy that Australia is.

Now that the people have spoken, this issue comes to this House, and we have a bill before us, the Marriage Amendment (Definition and Religious Freedoms) Bill 2017. I intend to honour the will of the Australian people and support legislation for same-sex marriage. However, I believe this bill can be improved by providing greater protections for freedom of religion and freedom of conscientious belief.

Let me also point out a deficiency of the bill that I don't believe has been adequately aired, and that is: the bill accords priority to religion over conscience. It assumes religious beliefs are more important than conscientious beliefs. For example, in clause 47 it provides, for religious marriage celebrants, more rights, with respect to solemnising marriage, than for non-religious celebrants. I have a problem with this because I don't believe religious beliefs are more important than conscientious beliefs. In fact, I believe conscience trumps religion. Indeed, the primacy of one's conscience should be sacrosanct. This isn't just a matter of Liberal Party philosophy, although it is our philosophy. It is also a matter of Christian theology. It was once said by a 19th century theologian, John Henry Newman, who also happened to be a cardinal of the Catholic Church at the time:

... I shall drink, — to the Pope, if you please, — still, to Conscience first, and to the Pope afterwards.

It's important that any amendments to this bill reflect at least parity for conscience and religion so far as the solemnisation of marriage is concerned.

If amendments that offer further protections for freedom and freedom of conscientious belief fail to be passed, then I will take comfort in the Prime Minister's announcement of a review into legal protections for religious freedoms in Australia, to be led by Philip Ruddock. Any government review into our freedoms is of the utmost importance, and I can't emphasise that enough. Any review that looks at our freedoms as a nation is critical.

In my maiden speech to this House I said:

The foundation upon which I hope our future is built is a common set of values—values that bind all Australians regardless of race, religion or creed.

I believe there is no greater value than that of freedom, for nothing else guarantees happiness and fulfilment like freedom, freedom realised through independence, self-reliance and dignity of the individual—ideals that in turn promote protection of free speech and property rights and encourage human endeavour and free enterprise.

To my mind, to protect and promote values such as freedom are the very reason we are here in this parliament.

Let me now close by again congratulating everybody who has been involved in this process. I re-affirm my commitment to honour the will of the Australian people by legislating for same-sex marriage while also remaining true to the need to protect the freedom of conscientious and religious beliefs.