

Legislative Council

Tuesday, 3 March 2009, Page 1447

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

(Extracted from Hansard)

The Hon. A. BRESSINGTON (16:38): The intent of this bill is summarised adequately in the following words of the Dalai Lama:

We must insist on a global consensus , not only to respect human rights worldwide , but also on the definition of these rights, for it is inherent nature of all human beings to yearn for freedom, equality and dignity and they have equal right to achieve that.

Carlos P. Romulo, Filipino diplomat, politician, soldier, journalist and author says:

Nations rise and fall, but equality remains the ideal. The universal aim is to achieve respect for the entire human race, not just the dominant few.

We can even look to the US Declaration of Independence for reference to equality. The opening paragraph of this document, presented on 4 July 1776, states:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights , that among these are Life, Liberty and the pursuit of Happiness.

I and, I am sure, other members have received numerous letters asking us to oppose this bill. I have communicated with all those who originally wrote asking for further clarification and, after that, I received about 30 individual responses to my concerns.

Not only did none of these responses satisfy me that the bigger picture was being considered with this bill but, in fact, that the bigger picture was irrelevant to those who would secure their own rights. Thomas Paine, British revolutionary, radical and inventor wrote:

He that will make his own liberty secure must guard even his enemy against oppression.

Make no mistake: when basic human rights are denied, then that group is oppressed and repressed. I met with a representative of the Christian lobby and, although I respect the information that was forthcoming, I again heard nothing that convinced me that this bill should not pass. I repeat the words of the Dalai Lama:

...it is inherent nature of all human beings to yearn for freedom, equality and dignity and they have equal right to achieve that.

We have seen many struggles for equality in the history of mankind, and it seems that the common obstacle is that one group truly believes that their rights are more precious or more deserving than others', and the struggle continues for centuries while we human beings retain our selfish and sometimes biased views about who should be equal. Arthur Schopenhauer awakened us to the cycle of change and acceptance when he said:

Every truth passes through three stages before it is recognised. In the first, it is ridiculed, in the second, it is opposed, in the third, it is regarded as self-evident.

I hope that, in the not too-distant future, the followers of Christianity will realise that equal means equal and, by God's own instruction, we are not here to judge the choices and lifestyles of others, that that is his job on judgment day as stated in Romans 14:10:

You then, why do you judge a brother? Or why do you look down on your brother? For we will all stand before God's judgment seat.

For some reason, the Christian lobby believes that they will be compromised should this bill pass, and such compromises were outlined in one response that I received, as follows:

While I understand your response, I do need to say that you have very much misunderstood my reasons for writing. You seem to think that my reasons for writing are my personal preference. Please be assured it has far wider implications than my own limited personal preference. This bill, in its current form, cuts deeply at the core of Australian heritage.

Although this letter mentions the deep cuts to the core of Australian heritage, nowhere in the letter are any of those core issues outlined. If, in fact, Australia has a history of discrimination, which we truly cannot deny, then perhaps that is part of our heritage that we do need to change, and change quickly. The letter continues:

Yes, it is very important that individuals (i.e. people) in minority groups are considered equal under the law. However it is very unwise to make some minority groups more important than others.

Should this bill pass in its current form, it will place increased burden on some schools and churches. For example, in clause 18, (new s. 34(3)(c)), schools will be required to advertise on their website if they will not hire homosexual teachers and/or staff. This makes schools subject to divisive public criticism and protest and possible violence.

While I have heard this concern, I am still not sure why the Christian lobby believes that it has the right to determine an individual's worthiness to teach based only on their sexuality. In any other workplace, hiring and firing is based on performance, qualifications, outcomes and work ethic. If, in fact, Christian schools want to reserve the right to discriminate in such a way, then I see no reason why they should not put that policy statement on their website, because it may save individuals the trouble of applying for advertised positions.

As for public criticism, I wonder why the Christian lobby fears this criticism if it believes that its discrimination is justified. As for protest and possible violence, this is a difficult one, but I would like to draw members' attention to the fact that the Christian community has in fact been responsible for protests outside clinics that perform abortions, and those who work in those places have been subjected to verbal recriminations for the work they do. This particular fear that has been expressed in a number of letters is just a little like the pot calling the kettle black. The letter further states:

In clause 25, which deletes section 50(2) exemption, para-church organisations including Christian lobby and welfare groups (which are also

minority groups) and book stores for example, may lose the right to refuse to hire people with sexual lifestyle not in keeping with the Christian ethos.

Again, the depth of the effects is minimised by this statement. While this response talks about lobby and welfare groups and bookstores, the discriminations in place affect people who work in certain hospitals as nurses and others in care work who are either gay or lesbian. If they are discovered to have an alternative sexual preference, they can be dismissed on that basis alone. Why is the experience, years of study and love of a profession less valuable when a person is gay or lesbian? I quote again:

If a Christian church, school or camp ground has a hall for hire, or hires or rents other facilities (or provides any other good or service) the new section 39 would require them to provide that hall or facility even to people or groups with lifestyles contrary to the Christian teaching. As in the UK, churches may be required to hire their hall for a gay ' wedding ' ceremony or other activity against their will.

I ask: how does the hiring out of a facility to a gay or lesbian person or group interfere with how Christians live their faith? How does it change their value system in any way? It seems that the occupancy of the building is far more important than another group having the right to celebrate not only gay weddings but anything else in a building owned by Christians. I would like to see anyone else refused hire of a premises based on this reasoning—but somehow, again, dispensation is sought for something that would seem trivial to many when we are talking about equality and human rights. I quote again:

Churches may now be unable to refuse employment to those with sexual lifestyles that are not in line with Christian teaching in administrative roles within the church [although liturgical and clerical positions would still be protected] , depending on judicial interpretation of the protection found in section 50(1)(c). As I have said in my previous correspondence, the bill in its current form will open possibilities for some minority groups but savagely curtail them for others. The end result will not equate in equality for minority groups or for the community as a whole. In fact, quite the opposite. I would respectfully ask you to rethink your stand on this issue.

As I said, Mr President, broad and sweeping statements about Australia's heritage but no example of how. The responses I have received are all along the same lines as this and, although I admit that change is never easy when a group feels threatened, I believe that the response to this bill has been significantly dramatised in some areas while the effects on individuals, people who are gay or lesbian seem unworthy of consideration or mention.

The last time this bill was presented, the main objection was the racial and religious vilification clause, and that has been removed. Franklin D. Roosevelt stated:

If civilisation is to survive, we must cultivate the science of human relationships, that is, the ability of all kinds to live together in the same world at peace.

It seems that equality has been on the political agenda across the globe for quite some time, and I had hoped that South Australia would take a daring step forward in this long political, social and moral battle.

We will not eliminate discrimination through legislation alone. It will take both political and community will. Unfortunately, it is part of the human condition, along with lust, gluttony, greed, laziness, wrath, revenge, envy and pride. How do we eliminate what is part of humanity when we refuse to look to history to change the present and, by that, guarantee a better future?

Most of us are familiar with the novel by George Orwell titled *Animal Farm*, because many of us were required to read it at school. Perhaps as a reminder some of us should commit to reading this book again, because by my reckoning we are at about page 63—and almost ready to start all over again. Orwell wrote that one of the motives for writing was a 'desire to see things as they are, to find out true facts and store them up for the use of posterity.' He said:

In a peaceful age I might have written ornate or merely descriptive books. When I sit down to write a book, I do not say to myself 'I am going to produce a work of art.' I write it because there is some lie I want to expose, some fact to which I want to draw attention and my initial concern is to get a hearing.

Well, he certainly got his hearing—to a worldwide, generational audience, with a serious reminder that viewing others as less equal or valued is dangerous ground to tread and that failing to act has serious consequences for all.

Historically, we know about the Holocaust, and the fact that Hitler was able to convince an entire country to turn a blind eye to the horror that was perpetrated and a deaf ear to the screams of pain. The figures from that period show that 11 million were tortured and put to death in the death camps. At first it was the Jews, who account for approximately 6 million; the rest were gypsies, Slavs, homosexuals, the disabled, communists and other dissidents. So what do we do in 2009? We enshrine in legislation those forms of inequality and discrimination that will remain acceptable so long as it is openly put in words that will form a policy statement.

Are we truly so naive as to believe that bigotry and prejudice cannot lead us down the same path that history reflects? Lest we forget. Every year we commemorate those who died for this country and for freedom and democracy, and here in 2009 we see the same underlying sentiments that provoked a madman to believe that he had the right to eliminate 11 million people because they were not considered to be fit to live, and for fear that they would contaminate this nutcase's ideal of the perfect race. I quote:

When the Nazis came for the communists, I remained silent; I was not a communist.

When they locked up the social democrats, I remained silent; I was not a social democrat.

When they came for the trade unionists, I did not speak out; I was not a trade unionist.

When they came for the Jews, I remained silent; I was not a Jew.

When they came for me, there was no-one left to speak out.

That poem was written by Martin Niemoller, a German pastor and theologian born in Lippstadt, Germany, in 1892. Niemoller was anticommunist and, for that reason, supported Hitler's rise to power—at first. Niemoller became disillusioned. He became the leader of a group of German clergymen opposed to Hitler and who, unlike

Niemoller, gave in to the Nazis' threats. Hitler personally detested him and had him arrested and eventually confined in the Sachsenhausen and Dachau concentration camps.

Niemoller was released in 1945 by the Allies. He continued his career in Germany as a clergyman and a leading voice of penance and reconciliation for the German people after World War II. His poem is well-known and is frequently quoted, and it is a popular model for describing the dangers of political apathy, as it often begins with specific and targeted fear and hatred which soon escalate out of control.

It is my belief that, as elected members and legislators, we are supposed to be in here to represent the needs of all South Australians, without fear or favour, in a legal framework—not a religious one. It is interesting that even throughout history the Christians have themselves split, broken away and established many versions of Christianity, so if we are to consider Christian values as a basis for decision-making in this place then I ask: which group? How could we be sure that in another 10 or 20 years we will not come under the same pressure from another breakaway Christian group who do repeat history and who do believe they are the absolute authority on God's will? Mohandas Ghandi put it best in the context of this bill when he stated:

All compromise is based on give and take, but there can be no compromise on fundamentals. Any compromise on mere fundamentals is a surrender—for it is all take and no give.

This bill dabbles with the basic human right of a person to be considered equal under the law, and it does not do as good a job as it could. However, it seems that equality is a gradual process of change and, although it is a long-held ideal, it seems we have simply not grown up enough to realise that ideal just yet. I wonder how many more centuries will pass before we see no use in making one group inferior to another for the sake of values that are, as I see them today, counter to the true Christian philosophy.

I see this struggle no different from the freeing of the slaves in the United States. It was a firmly held belief that Negro men and women were not human simply because of the colour of their skin. Charles Sumner, US Senator and anti-slavery activist during the Civil War, stated:

From the beginning of our history, the country has been afflicted with compromise. It is by compromise that human rights have been abandoned.

This country can boast no better history, either.

There is a rising expectation within each interest group affected by this bill. All will want equal assurances that their freedoms will be protected after the bill is passed, without creating oppressive change and disadvantage where previously there was none. Each interest group will want to know that their group is not going to be more protected than another, and rightly so. Each constituency will want to know that it remains free in some parts of society to express political, religious views and teachings (such as churches and mosques) without the risk of breaking some obscure interpretation of a law that parliament had not intended to create or a freedom that it had not intended to forbid.

I received a number of letters of support for this bill from various groups who believe that their consumers will benefit greatly from it. I truly believe that this speaks volumes for the fact that the majority of South Australians in the area of human

service recognise the need for change and will embrace the modest steps forward that we have taken.

We will give a voice to people who are being harassed and intimidated both at school and in the workplace. We will protect the employment of those who have a disability as well as their carers and ensure that their lives are not able to be turned upside down by some who may want to change work schedules and routines without consideration. We have also provided a level of protection for those injured at work to be able to resume employment without prejudice.

All we need now is a commissioner with the will to execute these duties and use the powers provided to make a positive difference to those this bill seeks to assist, and I am hopeful that the current and future commissioner will do the best that can be done.

I do not share the Hon. Dennis Hood's concerns for the increased powers of the commissioner because my interpretation of those increased powers is to assist an investigation to take place when a person is too afraid to make a formal complaint or perhaps even for the commissioner to investigate and decide whether or not a claim is vexatious or frivolous. The commissioner with these increased powers, as I understand it, cannot take the next step without a formal complaint being laid.

I have never been and am not currently a lobbyist for gay rights. However, I am an avid supporter of equal rights, and I believe that has been a consistent message since entering this place in 2006. I have no tolerance for beliefs that a certain lifestyle choice is 'the one', but I respect every individual's right to that lifestyle as long as they live within the law and within the reasonable expectations of society. Without equality, many are not able to reach their full potential and many are held back by rejection and by being invalidated. These are not values that I subscribe to.

In my previous life, I saw enough damage done to individuals because of rejection, judgments and intolerance; I also saw the amount of strength and determination needed to recover from such attitudes. Any discrimination is destructive on every level: physical, emotional, psychological and spiritual.

I congratulate the Hons Iain Hunter and Gail Gago for having the intestinal fortitude to continue to pursue this issue of equal opportunity when most others threw up their hands in frustration. No change ever comes without effort and determination.

I want to make this point: this bill, although it does not affect me personally, also contains religious discrimination connotations. I want to put on the record in this council that my son is a Muslim. He converted 18 months ago; he married a Muslim girl. They are planning to start a family, and I want to know what I tell my future grandchildren about why they are not as equal as Christians. Why are they not considered to be as whole as Christian children? If this sort of discrimination continues, other grandparents, parents and I will be put into the untenable situation of having to have that conversation with these innocent children. I want to know who has the right to put any parent, grandparent or child in that position to hear that they are not equal.

I have heard a lot about Islam and, before my son converted, I was a bit dodgy about it. I did not have a great understanding of it, but I have studied this religion with my daughter-in-law, and I can tell you that the aspirations of Islam, as expressed in the Koran, are no different from the Christian belief system. Muslims believe in Jesus Christ; they believe he was a prophet who walked this earth.

We can have extremist Muslims, we know we do, but they are not indicative of the average person who comes here on the promise of a better life. They are not all extremists. The changes I have seen within my son over the past 18 months are not radical; they are mild and subtle. His self-confidence has improved, as has his self-respect, self-esteem and his basic respect for humanity, since studying this book. Tell me how that can be any less valuable than a Christian who has studied the Bible and come to the same conclusions.

I ask all members to consider that this is not just about sexual discrimination. As I said, the bill contains underlying tones of racial discrimination. I am not quite sure how anybody in this place can come to the conclusion that one group of people is less equal than another. Further to that, my sister-in-law in Queensland is a lesbian and her current partner is 45 years old, married with two kids, and she decided at the age of 45 that she was not heterosexual. She has been a teacher in a private school for 27 years. Under this legislation, if a parent or another faculty member discovers that she is no longer heterosexual but homosexual, she could, after 27 years of loyal service, good outcomes and dedication to her students, be sacked just like that just because she is no longer heterosexual. I find that absolutely appalling.

I commend this bill in its entirety to members, and I look forward to the committee stage, where all concerns and all matters of interest can be put on the public record through questions and answers.

Debate adjourned on motion of Hon. B.V. Finnigan.