



Rev. Hon. Fred Nile ED., L.Th., M.L.C.

Parliamentary Leader - Christian Democratic Party
Parliament House, Macquarie Street, SYDNEY NSW 2000
Telephone: (02) 9230 2478 Facsimile: (02) 9230 2098
Email: f.nile@parliament.nsw.gov.au



Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

NSW Legislative Council – DEBATE

Against:

The Hon. Marie Ficarra: The Government's haste to socially engineer on behalf of vulnerable children who have no say in the matter raises a major concern. Who will fight for their right to know who their father is? Surely every child deserves to have that knowledge. Indeed, the father should be present if at all possible—although I acknowledge this cannot always be so. At the very least there should be a record of paternity. What of the father's rights? These rights cannot be taken away to discriminate in favour of lesbian parents. Why not homosexual partners in parenting roles? Where will it all end? At the very least, biological fathers have the right to be included on the birth certificate of their own child. I will not vote to have this basic human right removed from fathers or their children. Whose interests are we serving—those of the children or those of the lesbian adults? How many births are we talking about anyway? There are estimates of as many as 250 a year. If that is so, surely these children deserve our care and our legislative protection. They deserve to have accurate and legitimate birth certificates.

Rev the Hon. Dr Gordon Moyes: The bill requires the terms "mother and father" to be omitted from section 18 of the birth certificate regarding parentage details, to be replaced by the term "both parents". In this way, the registration form could be used by people of unspecified gender. Is not this manipulation of the language something that George Orwell would have recognised? Let us not go the way he pointed to in his visionary novel *1984* when language was misused to achieve social outcomes. Babies are not conceived and born to couples of unspecified gender. They have a mother and a father—always.

Children need a mother and a father in order to become well-developed people. Society needs to support, respect, and safeguard fatherhood from anyone who would undermine it. I close on a personal note. As a former Australian Father of the Year I take very seriously my responsibility to oppose this bill and I ask all honourable members as representatives of our society to acknowledge and safeguard fatherhood by voting against the bill.

The Hon. Rick Colless: My opposition is not born out of prejudice towards different family relationships that may be in place. I support the different arrangements that exist in our community. It is born out the need for truth and biological science. As I said earlier, a person can have only one biological mother and one biological father. I believe the birth record should reflect that and should not be confused with the parenting arrangements that exist within the family situation. As such I am opposed to the bill.

Rev the Hon. Fred Nile: I have covered sufficient material to indicate widespread concern about the bill. This may come as a surprise to the Attorney General, who perhaps thought this bill was non-controversial. To the contrary, it has caused a strong reaction across New South Wales. Therefore, it would be prudent for the Government to accept my proposition that the bill be referred to the Standing Committee on Law and Justice. Indeed, I do not believe it is urgent and must be

passed today. It is far better to pass laws that we can be proud of rather than law that has strong opposition from community and church groups across the State. The Government should not pass the bill simply because it has the numbers. It has a responsibility to re-examine the legislation in light of the implications and the fact that it will require amendment to 57 Acts of Parliament.

The Hon. Charlie Lynn: I will not support the bill if my proposed amendment is not supported, because the legislation has been brought before this House for the wrong reasons. The Government has had plenty of time to prepare draft legislation for public debate over the past two years, but instead has kept it under wraps and is using it as a wedge against Opposition members. If the Government were genuine in its concern for same-sex family relationships and the welfare of children raised in experimental social environments, it would allow a conscience vote amongst its members. Of course, it will not do this because its objective is to divert attention from the mess it has created in managing the affairs of this State. If the Government were fair dinkum, it would withdraw the bill and put it before the public so that the interest groups of all persuasions could do proper research and present their findings and views to their parliamentary representatives. But the Government will not do that. As a result, I will not be supporting the bill

The Hon. Matthew Mason-Cox: I note the contribution of other members and respect the conclusions they have reached. I personally support many of the proposed amendments in the bill but I cannot accept the bills proposed amendments to the Births Deaths and Marriages Registration Act for the reasons I have stated. I understand that amendments are being foreshadowed by the Reverend the Hon. Fred Nile and the Hon. Charlie Lynn. I support the proposed amendments by Hon. Charlie Lynn in so far as they reinforce the legitimate and important role of fathers in families. In my view this is a line that should be drawn in the interests of children, in the interests of fathers and the interest of families, whatever their composition. I look forward to the opportunity to support the bill and hope the amendments to restore the legitimate role of fathers are agreed to by the Government.

The Hon. David Clarke: I conclude by again confirming my deeply held view that the changes to the existing law contained in this bill severely undermine the position of the father in a number of circumstances and will place many children in a position of disadvantage. In the circumstances, and as I have indicated earlier, I oppose this bill in its current form and will support amendments to be moved by the Hon. Charlie Lynn and Reverend the Hon. Fred Nile.

For:

The Hon. Robyn Parker: The bond that links the true family is not one of blood but of respect and joy in each other's lives. I support this legislation and I encourage other honourable members to do the same.

The Hon. Trevor Khan: I conclude my contribution by noting that the bill seeks to assist a group of children, those of same-sex couples, by providing them with a bundle of rights that children of heterosexual couples already have. The bill also seeks to address issues of discrimination against members of our community who, like us, should be entitled to equal treatment, equal respect and equal tolerance. I again quote the words of Nicholson CJ: *“I am here today because I value human rights and the principle of equal treatment. These are precious bulwarks against vulnerability and oppression.”* I support the bill.

The Hon. Catherine Cusack: I am very pleased to support the bill. The only issue that makes me angry is that it is 2008 and this measure is still seen as somehow difficult when in fact it is merely

overdue. The message should not have taken so long to sink into our political institutions. Most of us realise that the current position is manifestly unjust, but has been tolerated because frankly we lacked the courage to act earlier. The line in the sand that we draw today should have been attended to in the last century. It shames me that it has taken so long for honesty to rise up over such obvious prejudice and discrimination that tramples the rights of babies and young children, and harms the wellbeing of young Australians, who have every right to expect far better from us. It tramples the rights of women who love their partners and love their children. I must say even the title of the bill, the "Miscellaneous Amendment Act" seems lacking in courage, but it would be pointless to detain the House by quibbling that small point. In conclusion, of course I support this bill. I believe that it rights a terrible wrong.

The Hon. Melinda Pavey: A 2006 report prepared by the Department of Justice in Canada referring to children's development of social competence across family types concluded: "*The strongest conclusion that can be drawn from the empirical literature is that the vast majority of studies show that children living with two mothers and children living with a mother and father have the same levels of social competence.*" In fact, a few studies suggest that children with two lesbian mothers may have marginally better social competence.

As I said during my inaugural speech in this Chamber, our life experiences make us who we are—the impact of family, friendship, associations, schooling and career. In coming to a decision on this bill I asked myself the following question: How would I feel if my children had to face the level of discrimination that children of lesbian mothers face in their day to day life?

The Hon. Helen Westwood: The bill does not affect me because my children were born into a heterosexual family—I was married at the time I had my children—but after my husband left and my children were fairly young I had a same-sex partner, and she and I raised our children. Despite what has been said tonight, my parenting and mothering in both the heterosexual and homosexual relationship were exactly the same. I wanted the same things: I wanted my children to grow up as happy, healthy adults. I wanted them to know that they were loved and valued and that my partner and I would support them in all they did.

Ms Lee Rhiannon: The Greens support the bill. We welcome the Government edging a little closer to full equality for lesbian, gay, bisexual, transgender and intersex people. Tonight I have criticised the slow pace of reform for the LGBTI community. However, I again emphasise that there is much to celebrate in this legislation. I again congratulate the Minister, the Government, the Gay and Lesbian Rights Lobby, and other groups that have been involved in campaigning for this legislation. It certainly will be historic when it is passed. Each and every step towards full equality is certainly celebrated by the Greens. However, we feel the need to comment on the slow drip-feeding of rights for the gay and lesbian community; it is simply not satisfactory. The slow rate of reform appears to be geared to the early years of an election cycle.

The Hon. Penny Sharpe: I speak in favour of the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008. The past 10 years have seen a quiet revolution in terms of gay, lesbian, bisexual and transgender law reform across Australia and in many other western nations. It is rare that a piece of legislation that comes into this place has a direct personal impact on individual legislators. Tonight I find myself in this somewhat unusual position. I can speak from personal experience about the impact that this bill will have. It will make a difference to my children and the thousands of other children who are lucky to have two mums.

The Hon. Don Harwin: I pay tribute to four of my colleagues, the Hon. Robyn Parker, the Hon. Trevor Khan, the Hon. Catherine Cusack and the Hon. Melinda Pavey, who have made the case for the extension of the parenting presumption in a passionate and forthright way. They have dealt also with a number of red herrings that have come up in this debate by way of email and other means. I

could not add anything to the moving personal testimonials by the Hon. Helen Westwood and the Hon. Penny Sharpe.

I conclude by observing that while I do not disagree with my colleague the Hon. Catherine Cusack who said that these changes are certainly overdue, after having seen for more than 30 years the very real consequences of the fear of homosexuality and the ostracising, the discrimination and, far too often, the physical violence experienced by gays and lesbians, I am a little more sceptical, a little less optimistic and a great deal more pleased that we are finally seeing this legislation. I commend the bill to the House.

Dr John Kaye: The Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008 seeks to remove acts of discrimination against same-sex couples in parenting and raising children. The Greens support the bill, recognising that it is based on two basic facts. The first is that a quality loving relationship is not limited to people of different genders. The second is that a loving supportive environment for children can be and in many cases is provided by parents of the same gender. The introduction of this bill in Parliament is a tribute to the campaign for full equality for lesbians, bisexuals, gays, transgender and intersex people which they have conducted over many years and the campaigns they also have conducted for the rights of children.

The Hon. John Hatzistergos (Attorney General, and Minister for Justice): In reply: I thank honourable members for their contributions to this debate on the Miscellaneous Acts Amendment (Same-Sex Relationships) Bill 2008, which has evoked considerable emotion. By and large the contributions have been well thought-out and I commend those people who have expressed support for the legislation.

The Government will support the amendment proposed by Reverend the Hon. Fred Nile to make it clear that mothers and fathers can be included on birth certificates. However, that will not stop other descriptors being used. I will reserve further details for the Committee stage.

NSW Legislative Council – OUTCOME

Question—That the amendment of Reverend the Hon. Fred Nile to refer the Bill to the Law and Justice Committee for Inquiry be agreed to—put.

The House divided.

Ayes, 7

Ms Ficarra
Mr Gallacher
Mr Mason- Cox
Reverend Nile
Reverend Dr Moyes

Tellers,
Mr Clarke
Mr Lynn

Noes, 34

Mr Ajaka
Mr Brown
Mr Catanzariti
Mr Cohen
Mr Colless
Mr Costa
Ms Cusack
Mr Della Bosca
Ms Fazio
Miss Gardiner
Mr Gay
Ms Griffin
Ms Hale
Mr Hatzistergos
Dr Kaye
Mr Kelly
Mr Khan
Mr Macdonald
Mr Obeid
Ms Parker
Mrs Pavey
Mr Pearce
Ms Rhiannon
Ms Robertson
Mr Roozendaal
Ms Sharpe
Mr Smith
Mr Tsang
Mr Veitch
Ms Voltz
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Mr Harwin

In Committee

Clauses 1 to 7 agreed to.

Reverend the Hon. Fred Nile [11.15 p.m.]: I have concerns about the effects of the amendment to the Anti-Discrimination Act 1977 that will add a new category of domestic status, which really means domestic same-sex relationship status. Under this provision some people may feel justified and see this as an opportunity to make a complaint to the Anti-Discrimination Tribunal about individuals or organisations that conduct events emphasising traditional heterosexual relationships, such as running a Father's Day picnic. I had foreshadowed moving amendments to cover people who have religious convictions and who only accept relationships between people of the opposite gender, that is, a male and a female. People with such sincere beliefs, who are in effect conscientious objectors, should not be discriminated against. Such a defence is available in the

Anti-Discrimination Act for religious organisations but not for individuals. I am not able to move those amendments, but I ask the Minister to give that matter consideration. Perhaps he could introduce legislation at a later time to incorporate such provisions.

The Hon. John Hatzistergos (Attorney General, and Minister for Justice) [11.18 p.m.]: The Government will not support the proposal put by Reverend the Hon. Fred Nile, the effect of which would be to delete an essential aspect of the legislation. A number of situations require a person to disclose whether he or she is in a same-sex relationship. It follows, therefore, that if people are obliged to disclose the fact that they are in a same-sex relationship, discrimination against them for disclosing the fact that they are in a same-sex relationship should be avoided. The bill does that by providing that it is unlawful for people to discriminate against a person on the basis of the same-sex relationship unless one of the other exemptions in the Act is met.

Schedule 1 agreed to.

Schedule 2 agreed to.

Reverend the Hon. Fred Nile [11.20 p.m.]: I move Christian Democratic Party amendment No. 2 on sheet C2008-034C:

No. 2 Page 13. Insert after line 17:

[7] Clause 5 (3)

Insert after clause 5 (2):

(3) If the particulars supplied to the Registrar under section 14 of the Act specify that:

(a) a parent who is the father of the child wishes to be identified in the Register as the father, or

(b) a parent who is the birth mother of the child wishes to be identified in the Register as the mother,

or both, the particulars entered in the Register under section 17 of the Act must identify the parent as the father or mother, as the case requires. This subclause does not limit the particulars which may be included in the Register.

The amendment seeks to address the criticism that the bill's wording seems to devalue the role of the father in that it gives the appearance that the father would not be shown on the birth certificate in this circumstance. What appeared to be an omission and a downgrading of the role of the father has caused a deal of concern about the legislation as a whole; indeed, most of the criticism has focused on that aspect. I have been endeavouring, as have other members, to find a way of resolving that situation. The Attorney General has indicated that it was never the Government's intention to make any statement in the legislation about the role of the father or the importance of fatherhood. If that is the case—and I believe it to be the case—I seek the Government's support for the amendment and the support of Opposition members by way of a conscience vote.

The Hon. John Hatzistergos (Attorney General, and Minister for Justice) [11.22 p.m.]: The Government will support the amendment. As I clearly indicated in my second reading speech, it is not the Government's intention to modify the way birth certificates are issued in the sense of removing the names of mothers and fathers. Indeed, the current practice in relation to the naming of mothers and fathers has been an administrative practice that is not regulated by specific provisions. However, in order to allay any concerns we are happy to support the amendment.

The Hon. Charlie Lynn [11.22 p.m.]: I place on record that I had intended to move a similar amendment. I commend Reverend the Hon. Fred Nile for moving this amendment, which I support.

Question—That Christian Democratic Party amendment No. 2 be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 2 agreed to.

Reverend the Hon. Fred Nile [11.23 p.m.], by leave: I move Christian Democratic Party amendments Nos 3 to 9 on sheet C2008-034C in globo:

No. 3 Page 25, schedule 3.27 [2], lines 22 and 23. Omit all words on those lines.

Insert instead:

[2] Sections 55 (1), 58 (1) (d) and (2) and 60 (3)

Insert "or partner" after "paternity" wherever occurring.

No. 4 Page 25, schedule 3.27 [4], line 29. Omit "**Partner leave**".

Insert instead "**Paternity or partner leave**".

No. 5 Page 25, schedule 3.27 [4], line 32. Omit "Partner leave".

Insert instead "Paternity or partner leave".

No. 6 Page 25, schedule 3.27 [4], lines 35 and 37. Omit "**partner leave**" wherever occurring.

Insert instead "**paternity or partner leave**".

No. 7 Page 26, schedule 3.27 [6], lines 1 and 2. Omit all words on those lines.

Insert instead:

[6] Section 58 Notices and documents required to be given to employer

Insert "**or partner**" after "**Paternity**" in the heading to section 58 (2).

No. 8 Page 26, schedule 3.27 [10], lines 17 and 22.

Insert "paternity or" after "extended" wherever occurring.

No. 9 Page 27, schedule 3.27 [10], line 1. Omit "partner leave".

Insert instead "paternity or partner leave".

These are very important amendments. The legislation removed the term "paternity leave" and replaced it with "partner leave". Once again this gave the impression that the legislation was making a statement about paternity, which is a reference to the father, and again it was interpreted as a downgrading of the father's role. As the Attorney General has indicated, it was not the Government's intention in the legislation to make any ideological statement about paternity. The

effect of amendments Nos 3 to 9 would be to restore the word "paternity" so the relevant provisions would read "paternity or partner leave".

The Hon. John Hatzistergos (Attorney General, and Minister for Justice) [11.24 p.m.]: The Government supports the amendments.

Question—That Christian Democratic Party amendments Nos 3 to 9 be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment Nos 3 to 9 agreed to.

Schedule 3 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. John Hatzistergos agreed to: **Motion by the Hon. John Hatzistergos agreed to:**

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. John Hatzistergos agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

NSW Legislative Assembly – DEBATE

Against:

Mr Andrew Stoner: Concerns expressed to me about the removal of legislative recognition of the importance of fathers or the diminution of that recognition were addressed to some extent in the other place. Certainly, the concern was that the term "father" would be removed from birth certificates in the original bill introduced in that House. However, I understand that Reverend the Hon. Fred Nile, supported by the Hon. Charlie Lynn, who also sought to move an amendment, argued successfully on that issue. The Government has accepted the amendment of Reverend the Hon. Fred Nile that recognition of fathers on birth certificates should remain, and the bill has been amended accordingly.

Many believe children raised by same-sex couples have greater potential to suffer developmental problems or are more likely to struggle with their own sexuality. The Government may see the bill

as the thin edge of the wedge to legalise same-sex marriages or gay adoption but I for one will stridently oppose such steps.

Mr Greg Smith: I am pleased that Opposition members will have a conscience vote on the bill, which raises fundamental issues relating to the parenting of children and the role of fathers and mothers in the moral, spiritual and social formation of our nation's greatest asset, our children. My conscience directs me to oppose the bill. This Government seems to be heading along the same path as some of the more whacky governments in places like Spain and Canada where they want to take references to "mother" and "father" out of legislation. It is only because of the embarrassment and the public reaction that the Government caved into the amendment moved last night in the Legislative Council. Some members of the Government were uncomfortable because of their conscience.

Mr Anthony Roberts: The Law Reform Commission presented report 113 to the former Attorney General, Bob Debus, in June 2006. The Government released that report publicly only on 22 April 2008, simultaneously with the current Attorney General's media release entitled, "Rights for children of same sex female parents." I have a number of concerns about the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008. Once again, this Government's cobbled together and ridiculous piece of legislation fails to address some key issues. It should be looked at in greater depth for greater purpose. The bill seeks to equate the position of a lesbian partner of a woman who has a child after becoming pregnant by a fertilisation procedure, other than sexual intercourse, to the position of a married woman's husband.

Mr Peter Draper: Possibly the most thoughtful contribution I received was from the Anglican Church Diocese of Sydney. It expressed concern that many of the benefits proposed to be extended to same-sex couples are equally applicable to other types of caring, interdependent relationships, such as with elderly siblings or disabled family members. It pointed out that it seems unfair that other interdependent relationships that are not sexually based should be excluded under the legislation. It also expressed concern that granting certain entitlements to same-sex couples denied the reality of a biological mother and father. It declares its support for removing administrative barriers so that same-sex parents can provide their children with the best possible care, but expresses concerns about changes to birth certificates. I share those concerns, and I will not be supporting the bill.

Mr Ray Williams: I do not understand why this House would attempt to push through what can only be described as a symbolic change by excluding the words "mother" and "father" on a birth certificate and including the word "parent", which, in my opinion, diminishes the meaning of "father" and will cause extreme confusion for children in later life who may witness, with the changing of this legislation, that two mothers are listed as having parentage on their birth certificate. This fictitious recording of a parent instead of a father degrades the role of a father and changes our current social and acceptable standards. What message does the bill send to the community? It suggests to people, possibly some very young people, in our society that a child can have two mothers, or even that it is normal and acceptable for a child to have two mothers. It attempts to include two mothers on a birth certificate, which indicates the parentage of a child is two mothers, which of course is impossible and therefore the message is incorrect.

Mr Malcolm Kerr: I do not want to detain the House because much of what I was going to say about birth certificates was said by the member for Tamworth. The effect of the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008 on inheritance and the duties of parents could have been achieved without controversy and without destroying the integrity of the birth certificate. For that reason I will not support the bill. Debate in this House and debate in another place have fully

canvassed the arguments for and against the bill. This is not an easy matter; there are objectives in the bill that all of us would agree with. However, those objectives could have been achieved without impugning the integrity of birth certificates.

Mrs Dawn Fardell: The bill in its present form does not cover all contingencies. Once it is passed, the floodgates will open. Various different groups, people in different relationships—sexual or companion—may challenge the bill. The bill in its present form does not cover all the loopholes than may appear. I expect we will debate this matter again, and have a conscience vote again, because the bill has been rushed through. I had intended to support the bill. However, after further research I have determined that people in different relationships, not just sexual, raise children in a loving home, which is not always provided by a mother and father. Sometimes two aunts, or two grandparents raise children. Sometimes two males raise children. They can also provide a good environment. However, there are too many loopholes. I predict that we will be back in here within 12 months, again debating amendments to certain Acts. In its present form I cannot accept it.

Ms Katrina Hodgkinson: I do not think we need this legislation. That was my hunch when I first heard about the legislation and read through it. I was concerned about the father's name not being on the birth certificate and I talked to Charlie Lynn about it. I have agonised over this and I have really thought sincerely about it. I can see the academic argument from the Gay and Lesbian Rights Lobby, but I am going to follow my hunch about this legislation. I am going to follow what I think is the right thing to do and that is to vote on this side of the Chamber.

Mr Michael Richardson: I believe the best environment in which a child can be raised is in a traditional loving nuclear family composed of a father, a mother and their children. Indeed, in my electorate that role is followed in the vast majority of households. I am proud to say that my electorate has the highest proportion of traditional nuclear families in the State. For these reasons I shall oppose the Miscellaneous Acts Amendment (Same Sex Relationships) Bill despite the arguments advanced by its proponents. This bill will not advance the welfare of the people of New South Wales, as all members in this place are obliged to do, or of the children born to same sex couples. As the member for Lane Cove said, this bill is a slippery slope that ultimately will lead to homosexual adoption and marriage, both of which I vehemently oppose.

Mr Chris Hartcher: I will not vote for this legislation because it is not in the best interests of children. I acknowledge the right of people to enter into their own relationships and to have their property and testamentary affairs, superannuation, health benefits, travel arrangements, passports and notification of next of kin and such matters recognised because they are adult people who have made a voluntary choice to enter into relationships. But, in relation to the welfare of children, I believe the only consideration legislatively and morally should be the paramount welfare of the child. This legislation does not advance the paramount welfare of children. The underlying principles do not advance that paramount welfare and certainly the original legislation did not advance that. I believe the amendment is inadequate and I will therefore oppose the bill.

For:

Mr Michael Daley: The aim of the bill is to ensure that equal rights are afforded to children. That is the key issue. The changes in this bill simply recognise female same-sex partners as parents. In a situation where a lesbian woman conceives a child via artificial fertilisation an application will now be able to be made to allow her partner to be recognised as a parent.

Mr Frank Terenzini: I am pleased to support the bill. It completes reforms that began many years ago. Members will be aware that the Property Relationships Act includes in its definitions section "same-sex" couples. This bill extends that definition to other Acts of Parliament to eliminate discrimination that would otherwise be suffered by children of same-sex relationships. The bill completes the reform of administrative procedures to ensure that all relevant Acts of Parliament take the reality of same-sex relationships into account. For the reasons I have outlined I support the bill.

Mrs Shelley Hancock: I support the provisions in the bill, which will remove discrimination as it exists in New South Wales towards same-sex lesbian parents who are raising children in this State. My very strong view is that, as a society, we should be tolerant of difference at every level—including the sexuality of its members. Effective parenting is achieved through the commitment and dedication of parents, irrespective of their sexuality.

Ms Clover Moore: I welcome and strongly support the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008, which promotes better recognition of lesbian couples who have a child through donor insemination and finally allows both women to be recognised legally as parents of their child. Under the bill each woman will have access to leave to look after their newborn child, with maternity leave available to the birth mother and "partner leave", which will replace paternity leave, available to the other parent. Both women can be identified on the child's birth certificate. The bill also strengthens protection for same-sex couples under the Anti-Discrimination Act 1977 by changing "marital status" as a ground for discrimination to "marital and domestic status", and amends 57 additional Acts, regulations and by-laws to recognise and treat consistently de facto relationships for straight and same-sex couples. I welcome these changes, which have been a long time coming.

Mr Gerard Martin: Members of the Government have not been offered a conscience vote because no-one in our caucus requested it. Members of the Government believe the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008 addresses an important issue in relation to children's rights.

Mr Russell Turner: It is with pleasure that I support the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008. I thank my party, The Nationals, for allowing me a conscience vote on this very important issue.

Ms Carmel Tebbutt: I support the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008. This legislation extends parenting right to lesbian couples in a de facto relationship when one of the women has a child, and amends over 50 pieces of legislation to provide equal rights for people in same-sex relationships.

Mr Robert Coombs: I must say I am a little confused because I thought that the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008 would be one bill on which the major parties and the crossbench would be united to ensure that we create a society in which justice and equality are recognised and discriminatory practices are eliminated from our community. One of the basic definitions applying to the elimination of discriminatory behaviour includes the principles that all individuals will be treated equally under the law and will have access to the same rights as anybody else, irrespective of their creed, colour, race and sexual preference.

Mr Alan Ashton: On Monday my office received an email from a woman who wrote:
"I am writing to ask you all to support the Same Sex Relationships Bill. I am concerned for the welfare and security of my grandson, who is the much-loved child of my daughter and her partner. I

would like those two wonderful mothers to be recognised as my grandson's parents and to have the same rights under the law as heterosexual de facto partnerships where there are children.”

Mr Paul Mcleay: One of the symbols that go with having a child is the issuing of a certificate from the Registrar of Births, Deaths and Marriages. The certificate has a place for the names of the parents. Our certificate had our names and I went overboard and bought the framed copy and decorated it with wattle. It is not official but it is ceremonial and it is something that we have kept. We knew that we were Holly's parents and that our names are forever recorded on that certificate. I look forward to lesbian citizens of New South Wales also having that same right and privilege.

Mr Paul Gibson: It is only fair for parents in lesbian or homosexual relationships to have their names on a birth certificate. Over the years people have been confronted with many problems. Sometimes the name of a father was listed on a birth certificate but years later it was established that the person named was not the child's father. A child has no certainty that the person who is listed on a birth certificate is his or her father. Legislation such as this is long overdue. I support the retention of the term "father" on a birth certificate and the inclusion of parents, guardians or partners. I support the legislation.

Mr Daryl Maguire: My colleagues have given careful consideration to this important bill and I commend them for their contributions. Obviously they have thought long and hard about its implications. I am quite calm about the bill now that it has been amended in the upper House. Children are important. This bill will ensure that all children enjoy the same rights. I have said on other occasions that I will not support gay marriages. I will not vote for legislation that sanctions such a marriage, nor will I support adoption legislation for gay couples. I said earlier that I recognise that children are being born into those unions. I respect other people's choices, which is why I will be voting for this piece of legislation. I reaffirm my policy on issues with which we might have to deal later.

Mr Brad Hazzard: I have a few comments to make about the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008. Obviously, the amendments proposed by the bill have been examined in a range of ways: some in a narrow legal perspective and some more broadly. I do not have a problem with this bill from the legal perspective. It seems to me that the bill is making appropriate amendments to reflect modern-day reality. To consider the perspective from which we should start, I would start every time with the best interests of the children—a theme so obvious that I find it difficult to contemplate a different perspective. I support the bill.

Mr Jonathan O'Dea: I do not believe that this bill fundamentally damages that special institution. At the same time, it does promote other worthwhile rights in a situation where no father would otherwise be recorded for a child. Finally, I state that the upper House sensibly agreed to amendments to the original legislation. I will support the bill as amended.

Ms Verity Firth (Minister for Women): I am delighted to speak on the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008, **as amended by the Government** in the Legislative Council. There is a great deal of misinformation in the public arena about what this bill will do. I was also making the point that it is not the Government that has been disseminating it. I would like to acknowledge the concern raised by some members in this debate that this bill does not address every situation in which gay and lesbian parents might find themselves. Surrogacy is a developing area of law, which no doubt will need more attention over time. The Minister for Community Services is considering adoption by all New South Wales prospective partners in the context of a broader response to a review of the Adoption Act 2000.

Before I conclude I would like to acknowledge the crucial work of many in the gay and lesbian community who have lobbied for these changes, in particular, the hardworking activists of the Gay and Lesbian Rights Lobby and the AIDS Council of New South Wales. The Iemma Government has a proud record of law reform for same-sex couples and their families. I commend this bill to the House.

NSW Legislative Assembly – OUTCOME

Question—That this bill be now agreed to in principle—put.

The House divided.

Ayes, 64

Mr Amery
Ms Andrews
Mr Aquilina
Mr Ashton
Mr Baird
Ms Beamer
Ms Berejiklian
Mr Borger
Mr Brown
Ms Burney
Mr Campbell
Mr Cansdell
Mr Collier
Mr Constance
Mr Coombs
Mr Corrigan
Mr Costa
Mr Daley
Ms D'Amore
Mr Debnam
Ms Firth
Ms Goward
Mr Greene
Mrs Hancock
Mr Harris
Ms Hay
Mr Hazzard
Mr Hickey
Ms Hornery
Mr Humphries
Ms Judge
Ms Keneally
Mr Khoshaba
Mr Lynch
Mr McBride

Dr McDonald
Ms McKay
Mr McLeay
Ms McMahon
Ms Meagher
Ms Megarrity
Ms Moore
Mr Morris
Mr Oakeshott
Mr O'Dea
Mr O'Farrell
Mr Page
Mrs Paluzzano
Mr Pearce
Mrs Perry
Mr Piccoli
Mr Piper
Mr Rees
Mr Shearan
Mrs Skinner
Mr Stewart
Mr Stoner
Ms Tebbutt
Mr Terenzini
Mr Tripodi
Mr R. W. Turner
Mr Whan

Tellers,
Mr Maguire
Mr Martin

Noes, 11

Mr Aplin
Mr Draper
Mrs Fardell
Mr George
Mr Hartcher
Ms Hodgkinson
Mr Roberts
Mr Smith
Mr R. C. Williams

Tellers,
Mr Merton
Mr Richardson

Question resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.