

ADDITIONAL COMMENTS

SENATOR LYN ALLISON

Australian Democrats Senator for Victoria

While the Australian Democrats support ALP Senators' recommendations, we believe that legislative reform in the area of same sex couples should extend to the private as well as the public sectors. To that end, the Australian Democrats will move amendments to this Bill in the Senate to ensure that the principle of non-discrimination applies universally for all Australians and is inclusive of the members of Commonwealth superannuation funds. We note that all Australians are compelled by law to be part of a superannuation fund. For gay and lesbian Australians this means that they are in effect compelled to contribute to superannuation funds at a higher rate than other Australians, because they do not receive the same benefits as other Australians. This is particularly unjust because of the compulsory nature of superannuation.

Since our inception as a political party twenty one years ago, the Australian Democrats have had a proud and strong record in advocating law reform for the gay, lesbian, bisexual and transgender communities.

In 1995, my predecessor - Senator Sid Spindler initiated the first national inquiry into the discrimination against those who are gay, lesbian, bisexual and transgender and introduced the first ever comprehensive Bill dealing with discrimination against this group.

That Bill prohibits discrimination on a number of grounds including superannuation and makes no distinction between whether superannuation funds are in the private or public sectors.

Clause 107 of the Spindler Bill preserves the right of same sex couples under any law of the Commonwealth and along with clause 4 makes it clear that the Bill will apply to the Commonwealth and its agencies.

In December 1997 the Legal and Constitutional References Committee report into the Spindler Bill, recommended the following (page 121):

Discrimination should only be based upon relevant actuarial and statistical data that is reasonable, having regard all the available material and that a person so discriminated against may appeal to the Human Rights and Equal Opportunity Commission for assessment of the basis of the decision, and must be provided with the information on which the decision was based.

The Australian Democrats continue to support that recommendation and note also that it had the support of the Australian Labor Party. We remain interested to see how Labor will reconcile the difference between that position and the one currently espoused in Mr Albanese's Bill.

We believe the principle of non-discrimination is a fundamental human right. Human rights standards supported by international law, should be universal, but unfortunately vary from State to State. The Australian Democrats do not believe in artificial distinctions between the public and private sectors nor do we believe that human rights should apply differently in different jurisdictions. States and Territories do not have rights - people have rights.

The Australian Democrats will move amendments to this Bill when it is debated in the Senate to ensure that same sex couple entitlements apply equally to Commonwealth and private sector employees.

Senator Lyn Allison

Australian Democrats Spokesperson on Superannuation