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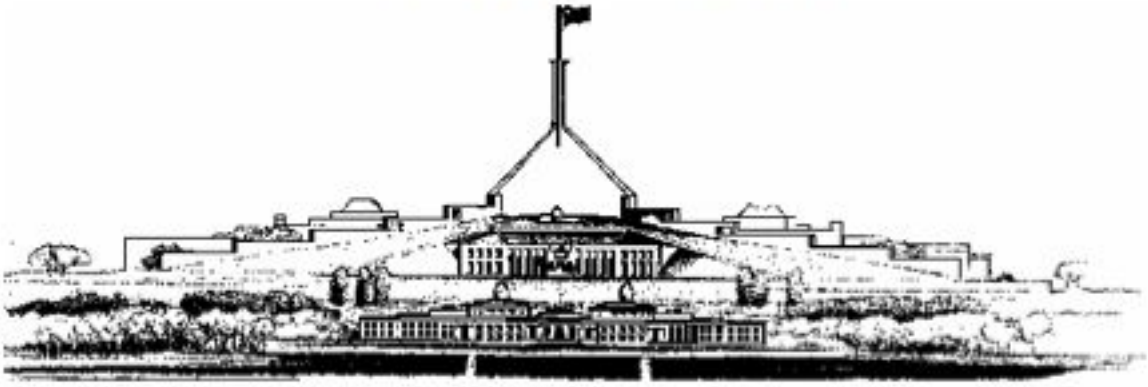

HOUSE OF REPRESENTATIVES

SEX DISCRIMINATION AMENDMENT BILL (NO. 1) 2000

Second Reading

SPEECH

Monday, 2 April 2001

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner		**Responder**	
Speaker	Macklin, Jenny, MP	**Question No.**	

Ms MACKLIN (Jagajaga) (9.13 pm)—The Sex Discrimination Amendment Bill (No. 1) 2000 is designed to divide the country and to promote prejudice. That sums up what we are debating here tonight. Prejudice and division are Prime Minister John Howard's stock-in-trade. He is highly skilled at sowing the seeds of resentment among the majority against minorities. His political career is punctuated with remarks delivered under the cloak of commonsense which is crafted to fuel maximum division. The divisions he creates are always at the expense of the minorities in our community and aimed at getting him votes. Make no mistake about it; this is politically motivated legislation. Asian Australians experienced this in 1988 when he said of Asian immigration:

> In the eyes of some of the community it's too great, it would be in our immediate-term interest, and supportive of social cohesion if it were slowed a little so that the capacity of the community to absorb was greater.

Again, in 1996, Australians were subjected to Mr Howard's divisive policies when it took him 35 days to comment on Pauline Hanson's racist views against migrants and Aboriginal people. Even then his repudiation was qualified when, in one radio interview, he claimed:

> Some of the things said were an accurate reflection of what people feel.

Aboriginal Australians were again a target of his divisive public statements when, in the wake of the Wik judgment, the Prime Minister appeared on the ABC's *7.30 Report*—and I am sure many people will remember this—with a map of Australia, with vast areas of land coloured brown. This was followed by his refusal to say sorry over the stolen generation and then by his refusal to acknowledge that there was even such a generation. The Northern Territory mandatory sentencing laws are another well from which he has sourced his divisive politics. Instead of healing the wounds of the past and bridging the divide between black and white Australians, as a Prime Minister should, our Prime Minister, John Howard, at every turn fuels resentment and maximises division—all for his political purposes.

So it should come as no surprise that last year, in his desperation to divert the nation's attention away from Labor's health and education policies, Mr Howard found a new minority to attack—single mothers. We know that he was attacking single mothers because, following the Labor Party national conference, with one breath he would insist that he was not but in the next breath he was classifying who were legitimate single mothers and who were not. With his dog whistle in his hand, which we have seen so many times, John Howard, at a press conference in Parliament House on 1 August last year, claimed that the Sex Discrimination Amendment Bill (No. 1) 2000 had nothing to do with single parent families:

> This has got nothing to do with single parent families.

To suggest for a moment that this is in some way an attack on single parent families is ridiculous.

My question to the Prime Minister is: if it is not about single parent families, why did you, in interview after interview, go on and on about it? In another interview, the Prime Minister said:

> I mean this is not about single mothers. Now let's make this very clear—it's got no ... the overwhelming bulk of single mothers do a wonderful job and I admire them and the way they cope in very difficult circumstances ... And of course there are loving family environments where deserted mothers bring up their children. There are tens of thousands of them and they do a wonderful job. This is not an attack on them. It's a completely separate issue.

According to Mr Howard, the only legitimate single mums are those who are deserted. If women exercise any choice in becoming a single parent, they are not to be supported by this Howard government. That, of course, is the dog whistle—the bit that goes unsaid—but the implications are clear. According to John Howard, there is no legitimate place in Australian society for single mums who are not deserted mums. All other single mothers and their children are fair game to be used in a political stunt designed to produce maximum resentment and to divert attention away from Labor's policies. This dog whistle politics became more explicit on 3 August in an

interview with Jeremy Cordeaux on radio 5DN, in Adelaide. In this interview the Prime Minister, who was yet again making an attack on single mothers, said:

> Nor is it an attack in any way on single mothers. The great bulk of course aren't single mothers by choice, are they?

One thing we know for sure is that the Sex Discrimination Amendment Bill (No. 1) 2000 before the parliament is not the government's response to McBain v. The State of Victoria; it is the government's response to Labor's national conference. McBain v. The State of Victoria is in fact the third court case since 1996 that found discrimination on the basis of marital status when providing an IVF service to be unlawful, but it is the only case that the Howard Government has shown an interest in. I think it might have had something to do with timing. The Howard government did not introduce legislation to amend the Sex Discrimination Act when the South Australian Supreme Court unanimously declared, on 10 September 1996, that the South Australian IVF legislation discriminated on the ground of marital status and, therefore, was in breach of the Sex Discrimination Act. Nor did the Howard government introduce legislation to amend the Sex Discrimination Act when the Commonwealth Human Rights and Equal Opportunity Commission, in March 1997, considered that the Victorian IVF legislation was in breach of the Sex Discrimination Act and was therefore discriminatory.

So why is the Australian parliament only now debating this legislation? One thing is very clear: it is not because the federal government is committed to addressing the complex moral, ethical and social issues involved in the development and use of this technology. It is not because the federal government wants to put in place measures to make sure that any child born as a result of the use of assisted reproductive technology is able to identify and locate his or her biological parents—it is certainly not that. It is not because the federal government is concerned about the interests of children who may be born from the use of assisted reproductive technology, as well as the interests of donors and those people seeking to use assisted reproductive technology—it is not about that either. And it is not because the federal government is committed to implementing the strong and unanimous recommendation of the Australian Health Ethics Committee of the National Health and Medical Research Council, nor to developing a national framework for regulating assisted reproductive technology. It is none of those things.

No, this bill does not tackle any of the important issues that Australians want to see tackled. This bill is about winding back antidiscrimination laws—that is all it is about—that protect us all; it is about winding them back for this Prime Minister's political stunt. This legislation allows Australian states to discriminate on the basis of marital status. It permits different human rights standards to exist in different parts of this country. Do not be misled—under this bill single women will continue to have access to IVF services in some states, but just not in other states. The bill does not stop single women having children; it just makes it harder for single infertile women in some states to have a child through IVF. They are still quite free to travel to a state that provides these services to single women. The laws governing IVF will still be inadequate and confusing. This bill establishes no national framework for uniform legislation to govern IVF services—none.

The development of national uniform standards for assisted reproductive technology has been languishing since 1996, when the ethics committee of the NHMRC recommended unanimously and strongly that that legislation be enacted. Has the government done anything about that? No. In fact, in July last year, just a week before the Prime Minister's divisive act, the Department of Health and Aged Care prepared a report for the meeting of state and territory health ministers which noted the need for these standards to be developed. Dr Wooldridge's options paper stated:

> There is a need to ensure consistent standards in this area of research, clinical practice and related social issues such as eligibility requirements, surrogacy and consent for use of gametes and embryos to ensure that practitioners and participants do not cross inter-state borders in search of services in this field.

The heath ministers noted this report on 27 July. At the meeting, the federal Minister for Health and Aged Care, Dr Wooldridge, expressed no urgency in developing uniform laws, and he did not push for new laws to resolve eligibility issues or laws to protect an IVF child's right to know his or her biological parents—none of those things. Instead, he noted the health department's options paper and, I am told, did not even speak on the issues. I have to say that I find it hard to imagine anything more dishonest and hypocritical. The health minister had the opportunity to do something constructive to resolve the confusion surrounding eligibility for IVF services on 27 July. He had all the state ministers responsible for administering IVF in one room. Assisted reproductive technology was on the agenda and he failed to discuss it. Strangely, just three working days later the Howard government announced that it would urgently amend the Sex Discrimination Act to allow states to discriminate on the basis of marital status. Of course, this had not been mentioned at the ministers meeting.

This, more than anything, to me exposes this legislation for what it is—a Howard government stunt designed to divide the country and create resentment against single mothers. Once again, this Prime Minister has resorted to dividing the majority against a minority for his own political advantage. This legislation does not protect the rights of the child—the sanctimonious reason we have heard from the Prime Minister and the health minister. Legislation that protected the rights of the child would address point 3.1.5 of the NHMRC ethical guidelines for assisted reproductive technology. This point states:

> Children born from the use of ART procedures are entitled to knowledge of their biological parents. Any person, and his or her spouse or partner, donating gametes, and consenting to their use in an ART procedure where the intention is that a child may be born must, in addition to the information specified in this section, be informed that children may receive identifying information about them.

Victoria is the only state that allows IVF children access to information about their donor parents once the person turns 18. Western Australian and South Australian legislation denies IVF children this right by making it illegal for the identity of the donor to be disclosed. There is no specific legislation to regulate IVF in NSW and Queensland, and compliance varies between clinics.

There are strong health and emotional wellbeing benefits for children that flow from ensuring that this information is available. In my view—it is certainly a very strong personal view of mine—Australian children born as a result of IVF technology should have equal rights to know the identity of their biological parents regardless of which state they were conceived in. Mr Howard has done nothing to make sure that that right is created or protected.

The adoption of this guideline nationally would require all donors as part of their participation in any treatment program to be properly counselled and informed of the possibility of later contact. There are specific requirements in the state acts and the NHMRC guidelines for the provision of counselling services for those involved in IVF treatment. However, the absence of a consistent definition of `counselling' or the qualifications of those providing the service raises the question as to whether services are being appropriately delivered. We have no commitment from this government to national IVF protocols for counselling or to the national accreditation of counsellors. Nor has the government made a commitment to develop a uniform system of record keeping and confidentiality requirements across the states. This is a very important issue.

A national database of donors would ensure that the reporting data were thorough and consistent. It would make sure that proper records were maintained indefinitely and the number of offspring from an individual donor recorded nationally. A national register and database could reduce the likelihood of accidental incest, where too many children are born using the sperm of one man or using the ova and sperm of one family, between the same family members. Western Australian legislation requires that no more than five known families receive gametes from one donor. In South Australia, a maximum of 10 children can be born from the reproductive material of one donor. These issues are relevant at the national level, yet there are no limits. These limits could be enforced through a national register. Issues of accidental incest could be avoided through the establishment of such a database.

This legislation does nothing to address any of these issues. It does not commit the government to a national register and database of donors. It does not ensure nationally consistent reporting. It does not assist IVF children to identify their biological parents. It does not implement a consistent screening program for donor gametes and embryos. This legislation is not about protecting the rights of the IVF children. It is about creating unequal rights. The Australian Labor Party believes that all Australians are equal before the law and that the right not to be subject to discrimination on the basis of sex or marital status is a fundamental human right. It is a very sad day for human rights in this country when this principle—a principle that has been enshrined in legislation for 16 years—is sacrificed for a political stunt.

Human rights laws such as the Commonwealth Sex Discrimination Act are made to protect minorities from the majority's prejudices. They often challenge deep-seated and popular prejudices, because that is exactly where discrimination is rooted. The Howard government, in the pursuit of electoral popularity, has demonstrated that it has no concern for the human rights of Australians. Human rights are there to protect all of us and when the Prime Minister of the day is allowed to pick and choose which Australians are worthy of protection all of us should be worried. This Prime Minister knows only division. This Prime Minister does not govern for all Australians; he governs by exploiting majority resentment against minorities. The only way to make sure that all Australians continue to be protected is to defeat this legislation and send a very strong message to this Prime Minister that

Australia is a tolerant, compassionate country where human rights are not only protected but freely shared by all Australians.