



# ***LEGAL AFFAIRS, POLICE, CORRECTIVE SERVICES AND EMERGENCY SERVICES COMMITTEE***

## **Members present:**

Ms B.G. Stone MP (Chair)  
Mr J-P. H. Langbroek MP  
Mr J.P. Bleijie MP  
Mr C.J. Foley MP  
Mrs B.M. Kiernan MP  
Hon. D.M. Wells MP

## **Staff present:**

Ms A. Powell (Research Director)  
Ms A. Honeyman (Principal Research Officer)

## **EXAMINATION OF THE CIVIL PARTNERSHIPS BILL AND THE CIVIL PROCEEDINGS BILL**

### **TRANSCRIPT OF PROCEEDINGS**

**FRIDAY, 4 NOVEMBER 2011**

**Brisbane**

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### **Committee met at 10.04 am**

**ACTING CHAIR:** Ladies and gentlemen, good morning. I declare open this meeting of the legal affairs committee. Thank you for your interest. Welcome to the public in the gallery. I acknowledge the traditional owners of the land upon which we meet. The legal affairs committee is a bipartisan statutory committee of the Queensland parliament and thus represents the parliament. It is an all-party committee which adopts a non-partisan approach to its inquiries.

I introduce for the benefit of the visitors in the gallery the members of the committee: to my right John-Paul Langbroek, deputy chair and member for Surfers Paradise; to my left Jarrod Bleijie, member for Kawana; beyond him Chris Foley, member for Maryborough; Caroline Male, member for Pine Rivers on the far right; and Murray Watt, member for Everton beside her. I am Dean Wells, member for Murrumba and acting chair of the committee in the absence of Barbara Stone, who is unable to attend due to illness.

The committee is examining two bills, the Civil Proceedings Bill, to which I will turn later, and the Civil Partnerships Bill. The Civil Partnerships Bill is introduced by the member for Mount Coot-tha, Mr Andrew Fraser, and I welcome the Deputy Premier, who is here in his capacity as the member for Mount Coot-tha proposing the bill as a private member. It was referred to the committee for examination and report to the House. I stress that the committee is undertaking an examination process on behalf of the parliament and has made no recommendations and has not put forward any proposals at this stage.

The committee has advised the public of its examination of the bill by advertising it in the print media and on the committee's website and also by writing directly to a number of individuals and organisations. The committee's business section of the Parliament of Queensland website also provides information on the business before each committee for each sitting week.

A considerable number of public submissions have been received on the bill to date. The call for submissions closes at the end of the day today. The committee will hold a public hearing of submissions on this bill on Thursday, 10 November. The committee will invite selected witnesses to appear on that day and the hearing will be broadcast live on the Queensland parliament website. However, prior to the public hearing of submissions, the committee has invited Andrew Fraser MP to brief the committee on the bill, and this is what is about to take place today.

I would ask all people present to turn their mobile phones off. In the unlikely event of the need to evacuate, please follow staff directions. Members of the public are reminded that they are here to observe the hearing and may not interrupt the hearing. Indeed, nobody may speak without the call from the chair. In accordance with standing orders, any person admitted to the hearing may be excluded at the discretion of the chair. Representatives of the media may attend and may record the hearing.

As the member for Mount Coot-tha is well aware, he speaks under absolute privilege. The proposition that members of parliament, or indeed anybody before a committee, is allowed to lie to the parliament is not correct. There are serious penalties for misleading the parliament. It is a contempt of the parliament and in the worst combination of circumstances can involve a jail penalty.

### **FRASER, The Hon. Andrew, Member for Mount Coot-tha, Parliament of Queensland**

### **SCOTT, Mr Jonathon, Policy Adviser and Caucus Liaison, Office of the Deputy Premier, Treasurer and Minister for State Development and Trade**

**ACTING CHAIR:** Today we are welcoming the member for Mount Coot-tha. Good morning and thank you very much for coming to speak to us. I am sorry that the preamble had to be, of necessity, so long. I invite you to advise us of your views and then we would like to ask you some questions.

**Mr Fraser:** Thank you, Acting Chair, and other members of the committee. I am grateful for your exposition of the circumstances of this hearing. Let me say at the outset that I think the new system the parliament has adopted to undertake inquiries into bills will serve the parliament and, indeed, the people of Queensland well into the future, particularly in relation to initiatives such as this that do come before the parliament ultimately as private members' bills.

The first point to make about the nature of the bill is in the context of your advice to the committee, and indeed to the public, through your opening statement that the committee approaches this not as warriors of partisanship but, in fact, as inquirers on behalf of the parliament. I might reflect upon the fact that if only that could apply to the substantial consideration of the bill when it does reach the floor of the chamber due for a vote. We are all well aware, of course, that the government in the chamber, the Labor Party, has provided for a conscience vote on these matters, and appropriately so on this private member's bill. I merely reflect that it is a dismal set of circumstances that the members of the opposition are not being

provided the ability to exercise their conscience in those circumstances. It is a shame, because this is a bill that seeks to advance a fundamental truth about human relationships. It seeks to advance the simple but truthful and desirable notion that we should forever pursue equality and justice for all members of the community.

This is a bill that does not and cannot impinge upon the definition of marriage. For the argument to be constructed around that notion is, in fact, one that is based on sophistry. I hope that no legally qualified person would put that forward because that would be merely a reflection of them discarding what is plain to anyone who has ever opened one page of a legal textbook. Marriage, of course, is reserved constitutionally in this country to the federal parliament and there is no capacity constitutionally for any state to impinge upon that. That is the undeniable legal truth. The desirability of the pursuit of equality is, of course, a separate debate, and the partnerships bill that has been introduced into the parliament merely reflects the capacity of a state parliament to recognise the truth of human relationships.

It seems to me that the debates that have been had in the last little while reflect some of the debates that occurred a generation ago when people said that the legal recognition of the fact of human relationships between men and women who were not married would, in fact, undermine the sanctity of marriage. It was not true then and it is not true today. I want to make this point about the scheme of the bill: the scheme in the bill provides for a relationship to be registered. It provides for the upfront validation of that relationship, but it does in no way expand the rights that exist across the statute books to people in relationships, whether they are heterosexual or homosexual, than have existed for many, many years in this state, principally through the legislative project undertaken in 2002 and advanced, I note, at the federal level subsequent to that.

There are very real differences between the way in which a marriage is recognised under federal law and the way in which a civil partnership is recognised, not the least of which is that there is a cooling-off period provided for a civil partnership in the bill. That is important in recognising a very clear difference between the nature of marriage and what is proposed here. Furthermore, the numbers of witnesses, the notice periods and the process for dissolution are different.

The very key legal point to make here is that the fact of a ceremony or a declaration does not, in fact, provide for the legal making of the partnership. The partnership is, in fact, made at the time of registration—that is, the time at which the relationship is registered on the registry. The registrar determines that. The fact of a ceremony is (a) optional and (b) inconsequential to whether or not a legal relationship is created under this bill. Very differently, of course, we know that marriage, in fact, is created by the ceremony, however large or small. It does not matter whether you have a thousand people under a big tent and everyone clinking glasses or whether it is 20 minutes down at the registry next to the Executive Building. The ceremony is legally the same. The ceremony is legally prescribed and it is that act of the ceremony that provides for the relationship to be legally created. That is a very different thing from the way in which the scheme of this bill operates.

I am at pains to point this out because I want this debate to be conducted straight-up for what it is, and that is a recognition, plain and simple, of the truth of human relationships—one that does not deserve to be opposed, not for political reasons, not for tricky reasons, not for dog-whistling reasons and certainly not on the specious argument that the time is not now.

**ACTING CHAIR:** Why now?

**Mr Fraser:** I think the question of 'why now?' is one that deserves a straightforward answer; that is, justice delayed is justice not done. I think the precept that is put forward that this is something that should be done on another day exemplifies a sort of moral relativism that is quite objectionable. It is the same sort of argument that people put forward at the time of the end of slavery—that it was not the right time to do it, that there would be an economic impact, that we should abide these sorts of things. I frankly think when it comes to issues around human rights and equality that the question of 'why now?' is first advanced by those people who do not have the courage to say why it is that they truly object.

**Mr BLEIJIE:** In the introduction you noted the spirit of this new committee system and that it was a good way to introduce private members' bills. You then proceeded to attack the opposition in terms of its non-conscience vote. Was it not you who actually changed the standing orders on a day to introduce a private member's bill out of normal parliamentary business when every other member of this chamber would do so?

**Mr Fraser:** I am not sure that is (a) a revelation, (b) incredibly relevant or (c) frankly, worthy of debate.

**Mr BLEIJIE:** It goes to the heart of your point about the new committee system, though.

**Mr Fraser:** I think you blokes took about half an hour to oppose and conduct a division on this when it took less than 10 minutes to introduce it. The sophistry around the upsetting of parliamentary business means that you wasted half an hour of the parliament's time for something that was going to take six minutes. I think in that regard that the idea that when other bills were being introduced on a Tuesday evening is somehow relevant to the substance of this debate shows the complete lack of courage for you to actually front up and expound your own moral objections to this bill. Hiding behind process is the last refuge of the coward.

**Mr BLEIJIE:** Mr Acting Chair made the comment, 'Why now?' I note on 27 October in *Hansard* you state—

I thank the Leader of the Opposition for his question. Let me state categorically this: the initiative that was brought to the parliament was an initiative of this government and of this government alone.

Why is it a private member's bill if it is a government initiative?

**Mr Fraser:** It is a private member's bill in order to facilitate it as a conscience bill in the first instance and, secondly, to provide the opportunity that the parliament might consider it in a timely fashion and not impact upon the agenda for government business that is set out in standing orders.

**Mr BLEIJIE:** Mr Fraser, what consultation did you conduct? I note on or about 21 October you appeared on the 7.30 *Queensland* program announcing you may push for a same-sex union bill. On or about 25 October you changed the parliamentary rules to include a private member's bill, which we are being briefed on today. What consultation did you do prior to 21 October and between 21 October and 25 October, with the introduction of your private member's bill, with your constituents and Queenslanders?

**Mr Fraser:** Frankly, your continued assertion that the rules of the parliament were changed is factually incorrect and you know it. Secondly, the bill was introduced for the consideration of the parliament and I am happy for the examination to occur through this process. Knowing that the committee system operates, any introduction of a bill is going to have a public hearing, which is going on all around you. Down the track, public submissions are going to come in. I am entirely comfortable that people will have the ability to comment on this bill before it comes toward a vote. For the record, I note the fact that the report-back date for this committee on this bill was agreed on a bipartisan basis by both the opposition and the government. Therefore, if you have some driving objection about the timetable for this bill, I suggest it is something that is being denied factually because of the very fact that the Committee of the Legislative Assembly agreed on a bipartisan basis to the report-back time frame.

**Mr BLEIJIE:** Am I right in saying that you conducted no public consultation on this bill prior to introducing it?

**Mr Fraser:** My views on this have been on the record for a long time. A public debate has been occurring. Anyone who wants to hide under the bed and pretend that the debate has not been occurring has not been observing what is going on in the public arena.

**Mr BLEIJIE:** With this bill? With your private member's bill?

**Mr Fraser:** I am happy for it to be examined now. I do not understand the process point that you are making as being relevant to the substance of this bill. Once again I make the assertion that you are seeking to hide and take refuge under a point of process because you have neither the courage nor the fortitude to expand your own personal moral objections.

**ACTING CHAIR:** Order! The honourable member for Mount Coot-tha, personal reflections are disorderly. I would be grateful if you could avoid them. Do you wish to continue your line of questioning?

**Mr BLEIJIE:** Thank you, Mr Acting Chair. My point is that you have said it is a government initiative. Many government initiatives that have been introduced recently have gone out publicly. We are doing it with the Sentencing Advisory Council report at the moment. The Attorney-General is publicly consulting now. I simply make the point that you have said in this House it was a government initiative. Are you saying that there was no consultation about this bill prior to introducing it?

**Mr Fraser:** I am afraid I cannot educate you.

**Mr BLEIJIE:** I will take that as a no; absolutely no consultation.

**Mr Fraser:** The bill is being consulted upon at the moment. If you would like to take that as some point-scoring victory in a year 7 type debate, I welcome you to the point.

**ACTING CHAIR:** Member for Surfers Paradise?

**Mr LANGBROEK:** My question to the Treasurer and the Deputy Premier is about the fact that this committee has invited the government to make—

**ACTING CHAIR:** Order! He is here as the member for Mount Coot-tha.

**Mr LANGBROEK:** I was actually referring to him by his correct title.

**Mr Fraser:** 'Mate' will do.

**Mr LANGBROEK:** We have invited the government to make a written submission on the bill. In his second reading speech the member for Mount Coot-tha said that this is an initiative of the government. Clearly it is going to have some wide-reaching ramifications for 21 other acts that are mentioned in the explanatory notes and, of course, in the bill itself. I am concerned that we do not seem to have any other detail provided by the government, or a submission from it, outlining what I consider to be significant changes.

**Mr Fraser:** As I understand the matter, the ability for the committee to provide questions to other public officials about the impacts is one that is open to the committee. I do not have any objection to that personally.

**Mr LANGBROEK:** I also make reference to the issue of a conscience vote. I do not think it is necessarily the view that a conscience vote is something that one side of the parliament may have an internal policy issue that they would then seek to have clarified by a conscience vote. As I have understood it from my time in this place, traditionally it has been issues of life and death that we have had conscience votes on—in the 7½ years that you and I have been here together.

**Mr Fraser:** I think it is fair to say that the reason that members of the opposition are parroting a view on this as one, despite the divergence of private views that I know they hold, is because of the fact that this is an issue that goes to the core of people's beliefs, whether they be their own conceptions of human rights, their own conceptions of moral and ethical standards or their own religious beliefs. That is why there is a contest about this debate in the public arena. I think absolutely it is the case that when we go to the core of those issues that affect each individual's own conceptions of religious faith or their own conceptions of moral or ethical frameworks, the provision of a conscience vote is appropriate. It is a sad reflection on the opposition that one is not being provided. I suspect you think it is sad as well.

**Mr WATT:** Mr Fraser, some of the objections raised by opponents of the bill, I am not sure about the opposition side but certainly in the public, have been around the fact that as the law reform efforts undertaken in recent years around same-sex relationships, in relation to things like superannuation and property settlements, have already occurred it means that a bill like this will have no practical effect for people. The proponents of this argument advance that as a reason not to do this. Have you anything to say about that argument?

**Mr Fraser:** In the first instance, one can say that if it does not matter, why won't they vote for it? If it has no consequence, why won't they vote for it? If it is something that is neither here nor there, why won't they allow for it? If it is not going to have an impact on them, why won't they allow this to happen? In truth, I think the real reason is because of an approach that seeks to deny the ability for people to validate upfront and celebrate more particularly valid human relationships that have existed through centuries. The reason that this is being contested proves the point that this is a bill worth having. The fact that so many people want to oppose it for what I think are dark hearted reasons for many people—legitimate faith based reasons for many people, but for other people I think they are dark hearted reasons—goes to the core of the value of this bill, which is that it says that, as our laws should reflect the truth of human relationships, symbols are important. That is why we contest things like flags, that is why we contest things like conceptions of human relationships. Those things actually matter to people. I defy anyone who says that this is a bill of no consequence to talk to a human being who wants to have their relationship with their significant other person recognised, validated and celebrated in front of their family, their parents, their brothers and sisters, their children, their friends and all the people whom they hold dear and tell them that this is something not worth pursuing.

**Ms MALE:** Member for Mount Coot-tha, I was curious to note there is a distinction made between the different types of celebrants. If a man and woman are getting married, they have a marriage celebrant, which is done by the Commonwealth. In the proposed bill it will be a civil partnerships notary. Why was that distinction made and what impact will that have on the justice department in registering notaries et cetera?

**Mr Fraser:** The bill provides a scheme for registering civil notaries who, as the bill sets out, meet certain criteria or are not disqualified on other criteria and they will be able to perform the declaration ceremonies that the bill contemplates. It is important to keep the whole scheme of this civil partnership relationship regime separate to that which provides for marriage. Therefore, a crossover or connection to the relationship of marriage is inappropriate in the constitutional sense in the way that the bill is being designed. However, the notaries are to be provided through the registrar and through the registry that already exists. From a resources point of view I do not expect a significant impact. But I would make the point that there is a very clear constitutional reason for the distinction being retained.

**Ms MALE:** Further to that point, I note in the bill that there are penalty provisions if notaries do not file documents in a correct amount of time et cetera. Has any concern been raised with you about that? What sort of education process will apply to the notaries?

**Mr Fraser:** Within the bill, should it pass through the parliament, there will be an importance placed upon making sure that the fact of a relationship registration is consequential for people and, therefore, needs to be placed with a value in terms of the legal framework and, therefore, the ability for criteria to be set, for qualifications to be met and, indeed, for penalties to apply if that is to be disregarded inappropriately as a standard form of the way in which a law can be drafted and should be drafted.

**Mr FOLEY:** Member for Mount Coot-tha, in listening to the submissions and the questioning this morning, I turn my mind to the submissions that have been received. In response to a question from another member of this committee you said that this is long overdue and there has been significant community feeling towards this bill. In the numbers of submissions received, there have been nine for this bill and 292 against. I ask you to reflect on how you believe that that shows there is a significant community interest towards it.

**Mr Fraser:** I think that people express those views in very different ways. Some people can get activated to contribute to a parliamentary committee through whatever organisation it might be. I do not think a contest of organised politics necessarily reflects the nature of a broader community view. Certainly it is my experience and I suppose I would invite other members of the committee and, indeed, other members of the parliament to reflect upon the last couple of weeks while this has been a matter of public Brisbane

debate and reflect upon the nature of the feedback that we all get when we are buying the paper in the morning or when we are knocking about in our communities. As a member of the parliament, my experience is that there is widespread support for the bill. My judgement is that that community support has reached a point where it should be translated into support in the parliament and that is why I have introduced the bill.

**Mr FOLEY:** I know that multiculturalism is very much on the agenda of the government in Queensland. What consultation have you done with other groups such as the Islamic Council or Hindu, Seik and Buddhist groups? One of the concerns that I have is that a lot of the responses that I have seen in the newspapers et cetera have become almost like an anti-Christian or a church-bashing thing. I would contend that there are probably many groups within the community that may feel similarly to the Christian church on marriage and those relationships.

**Mr Fraser:** From the very start I have been at pains to recognise that many people, for completely valid reasons of faith—for their own reasons of faith—will not abide such a change. Indeed, I do not seek to place any comment upon that other than to recognise their absolute perfect right to do so. I think for anyone who wants to conduct this debate in any way through the prism of taking on any organised religion does themselves and, indeed, to the extent that they are members of this parliament, a great disservice.

I hope that, should this bill come for a vote on the floor of the parliament, the debate is not characterised by attacks on any organised religion or, indeed, on any one individual's own faith based reasons. What I want to see is people stand up and say, 'These are my reasons.' If those reasons are their own Christian beliefs, their own Islamic beliefs, their own conceptions of human rights and that means they vote one way or the other, then I will applaud them for being here and providing for their own conscience on this matter in the parliament. In fact, I would object vehemently to anyone who sought to do anything other than that.

Can I comment more broadly on the first part of your question. I was conscious in introducing this bill that it would be subject to this committee process. I think the intent of the committee process is to enlarge the consideration of bills out there in the broader public arena through the conduct of hearings not just of officials, not just of sponsors of the bill, but of members of the community through submissions and otherwise. I think that means there is the ability for any one of us, whether it be you as a crossbencher or an Independent member of the chamber, or whether it be the member for Kawana who has a private member's bill, to put forward legislative proposals that have been drafted by the Office of Parliamentary Counsel—as they are for opposition bills, Independent bills, private members' bills and government bills—and then have them debated in the public arena through this process. I think this bill is being introduced in large part because of the new committee process that we have. I think it provides the opportunity for good law-making for private members' bills. In that sense, it is an enlargement of the function of the parliament.

**ACTING CHAIR:** I have a technical question. Since marriage cancels a civil union, will there be some arrangement for data matching between the marriage registry and the civil union registry?

**Mr Fraser:** There will. We envisage that the registry will be maintained through the same function of government and, therefore, the crossover that exists is able to be easily data managed, given the nature of the upgrade that has occurred through that registry in recent years.

**ACTING CHAIR:** Any other honourable members?

**Mr BLEIJIE:** I have two questions. You just made the comment about private members' bills and you specifically mentioned me as the member for Kawana who has introduced a private member's bill. I think there is one difference here. When opposition or crossbench members introduce a private member's bill, it has to go through the normal parliamentary system of the committee, which has six months to consider it. I note that in this case you, in fact, did not refer the bill to this committee. You referred it to the Health and Disabilities Committee and by common sense it was then changed to this committee. I think there is a difference between a government private member's bill and an opposition private member's bill. I am sure the government would not support opposition private member's bills being fast-tracked through the parliamentary process.

The other major difference is that, if I were to introduce a private member's bill, would I have the same resources at my disposal in terms of the Department of Justice and Attorney-General as you did in drafting this bill, as confirmed by the Attorney-General in this parliament's last sitting?

**Mr Fraser:** I am the happy to take all the points that you ask. The first point to make here is that any bill that you introduce is drafted by the same people who drafted this bill. The Office of Parliamentary Counsel for Queensland are the same public servants who draft your bills, who draft Independent members' bills, who draft government introduced bills and who draft bills introduced by members of the government as private members' bills. So you are not suggesting for one minute that you sat down with the blank piece of paper and the keyboard and tapped out your right-to-information private member's bill. You are not suggesting for one minute that you wrote the private member's bill about two-up that you have introduced. They were done by the same people. Let us not have the sophistry that you are trying to advance here.

**Mr BLEIJIE:** All I am suggesting is that the standing orders have to be changed to allow my bill to be fast-tracked.

**Mr Fraser:** I am happy to answer your nine-point question, mate, and that is this: the truth of it is that the government has been considering this for some time. It has been a matter of public debate. The submission that the cabinet considered was a joint submission from me and the Attorney-General, and the cabinet accepted my recommendation that we introduce it as a private member's bill that I was keen to support. My views on this have been clear and on the record for a long time. It also provides the opportunity for this bill to be considered through and by the standing orders in a way that would facilitate it coming to a vote. I think that is a tremendously good thing for the many people who feel so passionately in support of this change.

It is not open for you to therefore advance the idea that there is an impact on the parliament's standing orders or the agenda of the parliament by the consideration of this bill by this parliament as a private member's bill. In fact, the private member's *Notice Paper* is decidedly thin because the members of the opposition have not seen fit to put forward into legislation the agenda that they claim to have. In fact, this will proceed, therefore, as a private member's bill at a time when the *Notice Paper* is decidedly bare because of your own indolence. Secondly—

**Mr BLEIJIE:** In relation to the point you make about the private member's bill, I note that most of the private members' bills that the opposition has introduced have not gone to the parliamentary vote because the government has, in fact, copied and introduced its own bills to truncate ours. That is exactly what we have seen with the two-up bill at the moment. My point was, though: would I have access to the Department of Justice and Attorney-General, as you did, if I were to introduce and draft a private member's bill?

**Mr Fraser:** I think you are about to find that you have access to the Department of Justice and Attorney-General through this committee process. But I make the point that—

**Mr BLEIJIE:** It is not the committee process. Before the committee process, before you introduce the bill—

**Mr Fraser:**—the time frame that you spoke about has been determined by the Committee of the Legislative Assembly as a bipartisan group. So I think, therefore, if you had a contest about time frame for reporting—

**Mr BLEIJIE:**—you have had access to the Department of Justice and Attorney-General.

**ACTING CHAIR:** Order! It will be a great deal easier for Hansard if we have one person speaking at a time. I suggest that we adopt the age honoured tradition of a member asking a question and then the person who is asked the question answering it. Let us start it all over again. Member for Kawana, would you like to ask a question and then the member can answer it?

**Mr BLEIJIE:** We now have on parliamentary record from the Attorney-General that the Department of Justice and Attorney-General assisted in your private member's bill prior to it being introduced. Do private members of the opposition and crossbench have the same access to the Department of Justice and Attorney-General as you did before your bill was introduced?

**ACTING CHAIR:** Now the member for Mount Coot-tha will speak uninterrupted.

**Mr Fraser:** The government, as I said, has been considering this for quite some time. It is an issue that I first raised in the cabinet as something that I feel particularly strongly about. I am happy to enlighten you on this front to say that the discussion, in fact, first took place back in March at a Toowoomba community cabinet. At that point we, as members of parliament and as members of a government sitting around a cabinet table, looked at this issue. As it happened, through the process of the consideration of this by various members of the government, I put forward the proposition that this was something that should, firstly, be a conscience vote and, secondly, facilitated through a private member's bill in order that government business in the parliament was not impacted upon and, therefore, seeking to deny you the coward's refuge of saying that this was an impact on the parliament's time. It is plainly, as a private member's bill, not impacting on government business through the parliament. I think your continued attempts to provide for a scheme of process that seeks to deny the fundamental legitimacy of this bill once again reflects the fact that you will not say here on the record your own personal reasons for opposing the bill. Not only do I encourage you to do so; I challenge you to do so.

**Mr BLEIJIE:** Mr Chair, I did say I had two final questions. That was the first one.

**ACTING CHAIR:** As a matter of logic, you can only have one final question, but please feel free to ask a penultimate question if you wish.

**Mr BLEIJIE:** My final question is in relation to costs. The explanatory notes are silent in terms of costs of this government initiative. This has District Court implications in terms of mediation and conciliation facilities. If this bill were to pass the parliament, what is the cost to government and what impacts would it have on the budget?

**Mr Fraser:** I would envisage that the act of registration, like the act of registration of other relationships, will be a fee for service and, therefore, will not have a cost on the registration nor the registry that is enacted. It will be similar to the registration of notaries and, ultimately, the capacity of the court system is more than able to contemplate the existence of this relationship as being recognised in law. I make the point now that there is no difference in substance of those rights and those issues which arise legally through the courts from the existence of de facto relationships. Changing the legal system from the Brisbane

need to prove a relationship after the fact, which is what is required under de facto legislation—that is, under contest, usually unhappily, is when a de facto relationship is sought to be proved. That requires evidence to be adduced. In these circumstances you find that the evidence will be prima facie and upfront about the fact of the relationship existing. So quite apart from your contention that this is about to provide some impact in a negative sense on the efficient operating of the justice system in this state, I might ask you to reflect upon the fact that the reality that these relationships will be able to be registered and validated upfront might, in fact, provide for an efficiency in the system.

**ACTING CHAIR:** Do any honourable members have any further questions? In that case, may I thank the honourable member for Mount Coot-tha for taking the time to brief us today. This closes the committee's consideration of the Civil Partnerships Bill for the time being. Once again, thank you. We will now welcome the members of the justice department to the table.

**Mr Fraser:** Thank you.

**BRADLEY, Ms Imelda, Director, Strategic Policy, Department of Justice and Attorney-General**

**FORD, Mr David, Deputy Director-General, Liquor, Gaming and Fair Trading, Department of Justice and Attorney-General**

**LANG, Ms Jennifer, Acting Assistant Director-General, Strategic Policy, Legal and Executive Services, Department of Justice and Attorney-General**

**REED, Mr Philip, Director-General, Department of Justice and Attorney-General**

**SAMMON, Mr Damian, Director, Fair Trading Policy, Department of Justice and Attorney-General**

**WOO, Ms Linda, Executive Director, Office of Regulatory Policy, Department of Justice and Attorney-General**

**ZGRAJEWSKI, Mr Mark, Principal Legal Officer, Fair Trading Policy, Department of Justice and Attorney-General**

**ACTING CHAIR:** I welcome members of the justice department. Welcome, ladies and gentlemen. You know the spiel and the rules. Do you want to take it away?

**Mr Reed:** I thought I would do a brief introduction. Thank you again for the opportunity to present today in response to the stakeholder submissions on the Civil Proceedings Bill 2011. Yesterday I submitted for the committee's consideration detailed examination of and departmental response to the various issues raised by stakeholders in the written and oral submissions on the bill. I have also submitted information requested by the committee on issues concerning the proposed amendments to the Retirement Villages Act, the Associations Incorporation Act and the Justices of the Peace and Commissioners for Declarations Act in my letters of 27 October and 3 November.

It is clear that there is broad stakeholder support for the main purpose of the bill, the enactment of a new civil proceedings act to apply to civil proceedings in the Supreme, District and Magistrates courts and result in amendments to other court related legislation. Clearly, that position was supported by the Chief Justice in his submission to the committee. Stakeholders have also been supportive of, or have not taken issue with, some of the other proposals in the bill; namely, the right-to-information and information privacy legislation amendments. They have the support of the Australian Federal Police and the Queensland Information Commissioner.

The amendments to the Electoral Act requested by the Electoral Commission Queensland and amendments to the Queensland Civil and Administrative Tribunal Act requested by the president of QCAT have not attracted stakeholder comment. The Australian Funeral Directors Association is largely supportive of the proposed amendments to the Births, Deaths and Marriages Registration Act and the Cremations Act for improving processes in their industry. The department has fully addressed the concerns of the association in material provided to the committee explaining the misunderstanding and indicating the intention to consult with the association in settling the detail of regulation in support of the amendments.

The main issues raised by stakeholders and the committee where concerns have emerged are in relation to the Associations Incorporation Act, the Justices of the Peace and Commissioners for Declarations Act and the Retirement Villages Act amendments. In relation to the Associations Incorporation Act, the submission from the Queensland University of Technology Business School was concerned about whether associations originally incorporated under the Religious Educational and Charitable Institutions Act would have the internal structure necessary to pass the special resolution needed to effect the transfer. Only large corporations under the Religious Educational and Charitable Institutions Act are likely to want to take advantage of the new transfer provisions. These corporations are expected to already have the structure and constitution required to make this transfer.

A specific definition of 'special resolution' for corporations has been included in the bill. QUT has been engaged to prepare a detailed discussion paper in relation to a range of other issues of concern for the associations. The present amendment has been progressed separately because it has been specifically requested by larger associations. The issue raised in committee hearings concerning transfers of non-compliant incorporated associations has been addressed in the written material provided to the committee.

In relation to the amendments to the Justices of the Peace and Commissioners for Declarations Act to facilitate the copying and recording of proof-of-identity documents, this responds to stakeholder requests. The issues raised during the committee's hearings have been comprehensively addressed in the written material provided to the committee.

The issues raised in submissions in relation to the Retirement Villages Act amendments from the Association of Residents of Queensland Retirement Villages, the Queensland Law Society and the lead operator representatives, being Aged Care Queensland Inc. and the Retirement Village Association, have all been comprehensively addressed in the written material provided to the committee.

The Queensland Law Society and the village operator representatives raised a number of concerns about the amendment. Their core concerns were the clarity of drafting, the possible retrospective effect of the amendment and the restriction on freedom of contract. We have also addressed these issues in the written material provided to the committee. As such, we are happy to clarify any of these matters for the committee and answer any questions in relation to the Civil Proceedings Bill.

**ACTING CHAIR:** Thank you, Director-General. The committee is actually very satisfied with the written material that you have provided to us. We have no questions with respect to the Civil Proceedings Bill. The member for Kawana, I understand, wishes to ask you some questions which you might conceivably anticipate relating to the civil unions bill.

**Mr BLEIJIE:** Director-General, I think the secretariat gave you notice last night out of courtesy. We also just had the member for Mount Coot-tha address the committee. I did want to raise a couple of issues with you because the Attorney-General in the House last sitting advised that the Department of Justice and Attorney-General was involved in the preparation of the Civil Partnerships Bill, introduced as a private member's bill by the member for Mount Coot-tha. I wanted to seek clarification in terms of who in the department was charged with looking at this issue and when they were charged with looking at it. I have a series of questions. I encourage you to make a few opening remarks, if you can, in relation to that bill.

**Mr Reed:** Clearly the department did not put in a submission on this particular bill. I just make that point to begin with. Clearly the department also deals with a whole series of policy matters on a regular occasion at the request of government—sometimes self-initiated but quite often initiated by members of the government, members of the cabinet.

In this case we have been looking at this matter since earlier in the year. It is clearly a matter that has been around as a policy issue across Australia for a number of years. When I was in the Department of Premier and Cabinet in Victoria, I was associated with the passage of similar legislation for them in their parliament. So it is a policy area that has been alive for a long period of time. Clearly there were some points in time when there was significant controversy—for instance, when the ACT government's initial legislation was found to be invalid. So clearly departments at points in time will provide advice to the minister, to the government of the day, about policy issues. This fits into that category.

In terms of the point at which this moved to a private member's bill, I think the Deputy Premier articulated that in his answer earlier to the committee. Clearly there was a joint submission being brought forward. At a point that became the private member's bill and the department no longer had any involvement in instructions to the Office of the Queensland Parliamentary Counsel, which at that point was then instructed by the Deputy Premier.

**Mr BLEIJIE:** So the instruction for the department to first look at this issue more broadly, as you have talked about, was instigated by whom? From whom in government did the request come?

**Mr Reed:** I think I would say that it probably predated my arrival in Queensland and in fact was even being discussed within the department with previous Attorneys-General. So it is not something that has arisen quickly. It is something that has been always around, because of course it is not something that is unique to Queensland. It is something that has emerged in the ACT, Victoria and Tasmania. So we spend a reasonable amount of time looking at what goes on in other jurisdictions, because invariably there are ramifications for the state, or could be, or there may be ideas that get picked up that are considered by government—some of which may never emerge and others of which ultimately emerge, and in this particular case emerge as a private member's bill.

**Mr BLEIJIE:** Is it right that you said that, in terms of the private member's bill introduced by the member for Mount Coot-tha, the department had no direct input into that, or did they have input? The question is: what resources has the department used to get that private member's bill to where it is today?

**Mr Reed:** I think the Deputy Premier answered that fairly clearly earlier when he gave a response to the question, and that was that at a point there was a joint submission coming forward. Of course the department, on behalf of the Attorney-General, would be providing our legal policy advice, as we normally would on any matter, on that particular bill. But when the matter became a private member's bill, the department no longer provided input into the drafting of that bill.

**Mr BLEIJIE:** So there was a point in time when it was a joint submission from the AG and the member for Mount Coot-tha. Then the AG for some reason dropped out of it, and that is when the department ceased to be involved in the private member's bill?

**Mr Reed:** As I said earlier, that was explained by the Deputy Premier in his answer to your question earlier today.

**Mr BLEIJIE:** I asked the member for Mount Coot-tha in his capacity this morning, because he made the point about private members' bills. I made the point that I am not too sure that the Attorney-General would be keen on his department giving the same advice to me if I were to want the assistance of the department for a private member's bill. But I note that you are saying that, in terms of the private member's bill as now proposed, the department had no involvement with the actual bill.

**Mr Reed:** That is correct.

**Mr BLEIJIE:** Thank you.

**ACTING CHAIR:** Any other questions, honourable members? In that case, we thank members of the justice department. We appreciate you coming, particularly in such force. But you have already done your job so well that we do not need to cross-examine you. Thank you very much indeed.

**Mr FOLEY:** Acting Chair, can I—

**ACTING CHAIR:** The member for Maryborough has suddenly realised at the eleventh hour that he has a question he wants to ask you.

**Mr FOLEY:** I will take that parry from you, Acting Chair. I thought that was pretty good. I would like just a quick clarification on the funding issue. A number of lawyers that I have spoken to have said that the Civil Partnerships Bill will have a flow-on effect to other pieces of legislation in terms of costs, such as restructuring the Registry of Births, Deaths and Marriages to have another section, virtually, to do this. I am a little confused because the Treasurer said that he believed that on a user-pays system it would be cost neutral. I find that difficult to believe, having seen other private members' bills come in and the creep effect of legislation. Has the department done any analysis of what it would likely cost to re-tool everything to be able to cope, including the obvious legislative spread?

**ACTING CHAIR:** I am not sure that that question is in order. Can I just share with you my concern about it. The department have said that they are not providing advice with respect to the private member's bill. They are not here today in respect of that. Obviously they can answer it if they wish to, but I do not know that we as a committee can make them de facto advisers on the bill by asking them questions about the bill before us.

**Mr FOLEY:** To clarify that question, what I am asking is: in the event that the bill were to pass, have you turned any attention to what those costs might be? Up until then, it is hypothetical.

**ACTING CHAIR:** It is a really interesting and important question that you are asking. You might want to take it on notice and take legal advice as to whether you should answer it or not. While we would really like to know the answer to this question—and it is a really important question—at the same time if you answer it you become de facto advisers to the committee on the bill. We would like that, but you need to think about your legal position.

**Mr FOLEY:** I am happy if you want to provide a response on notice.

**Mr Reed:** Thank you, Acting Chair. I think that is a very sensible approach. As I mentioned to the member for Kawana earlier, there was a point in time when we were no longer involved in instructing on the bill. Obviously there is the potential for changes to occur in that bill. Therefore, I am quite happy to get further advice and come back with a response to the committee.

**ACTING CHAIR:** Is that okay with you? The committee can also ask the question by letter of the proponent of the bill.

**Mr BLEIJIE:** Acting Chair, it may assist the director-general that, based on the previous discussions about the submission that was put through to the Department of Justice and Attorney-General with respect to the joint submission of the Attorney-General and the member for Mount Coot-tha, there would have been, I suspect, costings done in terms of the financial impact on the department. Could you give an indication at that point, without it turning into a private member's bill, what the department was discussing?

**ACTING CHAIR:** So that question is: what advice did you give to cabinet when the matter was before cabinet? Again, I am not here to give you legal advice, but there are provisions of the Right to Information Act and of the Constitution Act which have a bearing on whether you answer that question or not. We would love to know the answer. It would actually be useful to the process if we knew the answer.

**Mr Reed:** Again, Acting Chair, it would be useful for us to come back to you once I have had an opportunity to take advice on that.

**ACTING CHAIR:** The member for Maryborough is suggesting that we write formally and request that information. You have asked the question; it is in *Hansard*. You do not need to do any more work. It is there and we look forward to receiving your answer.

There being no further questions, I thank the representatives of the justice department for their attendance. We will now continue our rather more mundane deliberations with respect to dotting i's and crossing t's on various reports that we are writing in another room. Thank you very much.

**Committee adjourned at 11.00 am**