



Speech by

BRUCE DAVIDSON

MEMBER FOR NOOSA

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PROPERTY LAW AMENDMENT BILL

Mr DAVIDSON (Noosa—LP) (10.44 p.m.): When two people of the same or opposite gender decide mutually to commence a relationship, it is always with a high degree of emotion and no less commitment than those who finally endorse the relationship through the act of marriage. As is the case with those who do marry, many relationships flounder following a waning of emotion, passion and commitment.

The institution of marriage is no more a guarantee of a lifelong association than is a de facto relationship. Indeed, the figures for 1998, which are the latest available, show that 51,370 marriages in Australia ended in divorce. In Queensland, 11,349 couples who swore "till death us do part" parted long before either spouse died. Indeed, the Australian average is 2.7 divorces for every 1,000 marriages. In Queensland in 1997, which is the latest figure available, the average is 3.3 divorces for every 1,000 marriages. While those figures are distressing, particularly when children are involved, all of the people involved enjoyed the protection of law when the combined mutual assets of the relationship were distributed because of the irretrievable nature of the relationship breakdown.

Even with the protection of the law, and particularly with the jurisdiction of the Family Law Court, the enmity within many recognised-by-law marriages that have broken down is enhanced by the recourse to the law of the parties and their legal advisers. However, at least those people have laws to protect the equity of the separate individuals. As the Honourable Attorney-General's second-reading speech so clearly points out, despite the guidance of a High Court judgment, that protection is currently not enjoyed by de facto couples in Queensland. The Bill seeks to remedy that unacceptable situation.

The High Court has shown the way ahead to remedy this travesty of justice through the *Baumgartner v. Baumgartner* case. The High Court held that there should be equality of beneficial ownership, at least as a starting point. As the Attorney-General has pointed out, the application of the principles set out in the *Baumgartner* case to specific fact situations has proved no easy task.

As we approach the new millennium, we should and need to be more tolerant towards each other. We need no less tolerance when considering the legal rights of individuals, regardless of their gender, in disputes over property when relationships break down.

As early as 1984, New South Wales, followed by Victoria and the other States with the exception of Western Australia and Queensland, recognised the need for legislation to protect all parties in de facto relationships. Those States have enacted laws accordingly. It is time that Queensland recognised the need for such legislation.

This is not the time to cast aspersions on the legal rights of people simply because their choice of lifestyle may not be consistent with the religious beliefs or ideals of other members of our society. This is a time to recognise that when lasting relationships, which involve no less commitment than legal relationships, have irretrievably broken down, those involved need the same legal recourse that is available to married couples in the same situation.

It is time to recognise that de facto relationships involving people of either the same or opposite gender can and do operate in accordance with the accepted and expected mores of the day and that they operate with no less commitment until, in some cases, differences and breakdowns in those relationships occur. Children are born into such relationships and their need for financial security

following such breakdowns must be assured by law. It is an abomination and a severe injustice that children born into such relationships are so discriminated against simply because no law exists to protect their future economic wellbeing.

It is obviously an injustice to all parties concerned in broken de facto relationships that one party can benefit at the expense of the other. It is totally unacceptable that in the main the women and children currently bear that inequity. That situation should not be acceptable to a modern, educated, tolerant and compassionate society. I am not in any way championing or passing judgment on the way that people wish to lead their lives or on their choice of lifestyles. I do not believe that is my right. This is a matter of individual choice— a choice that is no less respected by the law simply because it is not endorsed by the law.

I am pleased to be able to exercise another freedom of choice, namely, that offered to all members of the Liberal Party in terms of how we vote on matters such as those encompassed by this Bill. I believe that this Bill, as the Attorney-General stated, seeks to do justice in a non-discriminatory way for a group of Queenslanders whose plight has been ignored for too long. I believe that the provisions in this Bill that are designed as safeguards will achieve the desired result. It is my intention to support the Bill and I will vote in favour of its enactment.
