Speech by

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Hansard 14 May 2003

BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL

Mr SEENEY (Callide—NPA) (Deputy Leader of the Opposition) (9.38 p.m.): I rise to make a contribution on the Births, Deaths and Marriages Registration Bill 2003. The examination of this bill on behalf of the opposition was carried out by the shadow Attorney-General and the Leader of the Opposition, the member for Southern Downs, who regrettably cannot be here for this debate. I am more than pleased to stand in in his stead. I know he has spent a deal of time examining the provisions of this bill and he has reported to the opposition that it is a bill that is worthy of support. We will certainly be lending the bill that support in this debate in the parliament this evening.

The shadow Attorney-General has asked me to compliment the Attorney-General on the provisions of this bill. We are only too pleased to lend bipartisan support to legislation that sets out to modernise an area that is important to all Queenslanders. The registrations of births, deaths and marriages are probably not particularly important to people until a need for them arises. However, when a need does arise it is important that the recording of registrations is accurate. It is also important that Queenslanders have confidence in the information that they receive and in the system that records such momentous events in the lives of us all. When all is said and done, there is not too much that is more important than the three occasions that constitute the title of the bill. Births, deaths and marriages are momentous landmarks for us all. They very much define us as individuals.

The government has a role in ensuring that those registrations are maintained in an accurate way to ensure the integrity of that system. In terms of public administration, the government has a responsibility to maintain records of registration in a manner that has integrity and that can be used by the administering authority in fulfilling its responsibilities.

This bill takes a significant step towards modernising and simplifying Queensland law concerning the registration of births, deaths and marriages. It does that in response to a change in community attitudes and expectations. As administrators, we must be conscious of and responsive to those issues, because the community that we serve is always changing. The attitudes within that community are always changing and the needs of the people we represent are always changing.

It has been said a number of times within the context of a number of debates in the House that change is sometimes uncomfortable. For many of us, change is sometimes uncomfortable. Some of us handle change a lot better than others. However, one thing is for sure which is that the rate of change that we have all seen in recent times is not likely to diminish and it is certainly not likely to go away. It will probably become a bigger factor in our lives and we will have to deal with it. There are changing expectations in the community in relation to—

Mr Shine interjected.

Mr SEENEY: No doubt the member for Toowoomba North is on the speaking list. I appreciate his offer of assistance, but I think that I am doing pretty well on my own. I thank him anyway. There is a need for this parliament to respond to those changes in the community that we represent.

One of the key features of the bill is the introduction of the change of name register, which extends the system past the point under which it has traditionally operated in response to an emerging need within the community. As its name suggests, the register records the changes in people's names, which is a lot more common now than it used to be. There was a time when it was unusual for an

individual to change his or her name once. That did not happen very often. However, now situations are emerging where people change their names more than once.

Mr Wellington: Regularly.

Mr SEENEY: It can happen almost on a regular basis as the member for Nicklin says. That produces a series of problems for administrators, the legal system and a range of government departments that need to have some sort of continuity in their relationship with particular people, despite what their names may be at any time. That is symptomatic of the change within the community that I spoke about before. The register will be a useful tool for agencies that have to keep track of individuals.

Of course, law enforcement agencies spring to mind when thinking of bodies that may need to track individuals who change their names once or more than once. Even if a change of name happens only once, an agency may still need to track the individual involved. It need not be for a law enforcement purpose. There is a range of other reasons for interaction between people and different agencies.

The process for changing names has been around for a while. I am sure that most members are familiar with the deed poll processes, which is well established through the Supreme Court. However, up until now there has not been a system that allows any sort of cross-referencing of name changes in the court registries. The changes of name of an individual can mean that there is no easy way for authorities to trace people through their records without any real knowledge of previous names and how they relate to the existing name. The registry that will be set up will allow that sort of tracing to occur. It will ensure that there is a simple audit trail for authorities to track individuals.

It is important that that sort of information is not generally available. Most sensible people would understand the need for a degree of privacy in the system, which needs to be balanced against the state's or the agencies' needs to track names. On the one hand, there is a need for agencies to track individuals and to be able to establish an audit trail. On the other hand, there is a need to respect the privacy of the individual. This system achieves that balance pretty well. It ensures that the person's change of name remains private and is not publicly available. The information is not accessible to the public, but the system ensures that there is an audit trail for the authorities that need to track particular individuals on behalf of the community.

The bill also makes significant changes in relation to changing the names of children, which is an area that is fraught with emotive minefields. Unfortunately, in recent times it is likely to be an area of dispute. Regrettably, we live in a community where marriage breakdowns or relationship breakdowns are so much more common than they used to be. All too often children are caught up in the middle of those disputes. The naming of those children can be part and parcel of the dispute between the two people who are in conflict at the end of the relationship.

The change of name provisions that are encompassed in this bill set out to address a situation that, once again, was not all that common 20 or 30 years ago but has become increasingly common now. The current statutes do not provide the mechanisms to deal with that emerging issue, albeit a regrettable one. It is a reality that the statutes have to deal with. Once again, I think the provisions within this bill deal with that emerging problem as well as they can in the current situation.

The bill seeks to have disputes by registered parents over naming of children referred to the Magistrates Court so that there is some sort of control over the number of times a child's name can be changed. Under the bill the given names of a child can be changed on the birth register once within 12 months of the child's birth. So in that 12 months the name can be changed once. After 12 months, the first names of the child should not be changed any more than once before the child reaches 18 years of age. I think that is an attempt to be fair to the child. In all of these circumstances it is the welfare and interests of the child that should be paramount. Unfortunately, in the type of conflict situations that arise in relationship breakdowns that is quite often forgotten.

The bill provides that the consent of the child is required if the child is 12 years or over. I think that by the time they reach the age of 12 most kids today are able to understand what is happening in this regard. I think that is probably a reasonable age limit to set. It is quite a deal younger than the age limit that is set for a range of other decisions that young people are allowed to make. Perhaps the Attorney-General in his reply to the second reading debate can comment on why that age limit of 12 years was selected.

The bill provides for the change of name of children to be an issue that is dealt with in the court. To assist the court in deciding about the naming of children the bill sets out prescribed information which is required to be provided to the court. That prescribed information relates to the number of previous changes to the child's name, the views of both of the child's parents, the views of the child, the child's cultural, indigenous or ethnic background and whether the proposed name change is likely to impact upon the child's sense of cultural identity. I think all of those things are understandable and

particularly pertinent to the situation that would lead to the court having to make a decision about whether a change in the name of a child is warranted and whether it will be allowed.

Given that the restrictions I referred to earlier apply, the name of a child can be changed only once on the birth register within 12 months of the child's birth. So in that first 12 months the name can be changed only once. Then after 12 months of age the name of the child cannot be changed more than once before the child turns 18. After the age of 12 the consent of the child is necessary. Once again, I think those provisions are a good attempt to address this emerging problem that unfortunately has the potential to impact upon children who are caught up in this unfortunate situation of relationship breakdown.

The bill also provides that adults can apply for a change of first or surnames once per year unless otherwise ordered by the court. This bill does set out to address the issue the member for Nicklin referred to of some individuals seeking to change their names almost on a regular basis. The bill restricts applications for change of name to one per year. A similar limitation applies to children's surnames. I think that is also a sensible addition to the statute. There should be some limitation on the number of times people can change their names, just to bring some commonsense to the whole system. Otherwise, whatever system we put in place will struggle to cope with individuals who seek to change their names more regularly for whatever crazy reason they seek to do so.

The bill also addresses the failing in the present act that allows parents of nuptial or exnuptial children to end up in dispute over the naming of their children. The provisions of the bill will mean that mothers of exnuptial children will no longer be able to change a child's name without the registered consent of the father. This is in response to disputes that have arisen in the community. Unfortunately, that type of dispute is a lot more common now than it used to be. The bill provides that those types of disputes can be resolved by a court. It is fair and reasonable—it is one of the reasons this bill will receive the support of the opposition—that the rights of the father in this particular circumstance be considered. The statute should seek to protect the rights of fathers in a situation where exnuptial children are involved in changes of name.

The bill also seeks to modernise the approach to the birth registration process, particularly in relation to the recording of the names of parents. This is a matter that has caused some concern under the present act in that mothers of children can refuse to have the father's details recorded on the child's birth certificate. In the current circumstances it is almost as though it is up to the mother to say whether the father's details will be recorded on the child's birth certificate. Under the current system, the mother has to agree for the father's details to be entered into the register. That is not in the child's interest in terms of the use to which that register may well be put in years to come, nor is it in the interest of the administering authorities in terms of the use to which they will put those records in years to come.

Currently, if the mother refuses to enter the father's details on the register there is no recourse available to the father of the child. Under the legislation before the House it becomes the responsibility of both parents to register the birth of a child, regardless of what type of relationship they are in—regardless of whether there is a formal marriage contract between the two or an informal, de facto relationship between the two. It becomes the responsibility of both parents to register the birth of the child. If there is not that formal contract of marriage then the father of the child may apply to have the birth of the child registered. So the father of the child can ensure that the fact he is the father is registered on the birth certificate.

There is a rather obvious problem with establishing with any degree of certainty whether or not a particular individual is the father of a particular child. It is much easier, of course, to establish whether an individual is the mother of a child. But there are particular difficulties that probably do not need a great deal of explanation as to establishing whether or not individuals are indeed the father of the child. So under this legislation the Registrar-General needs to be satisfied that an individual is the child's father and the Registrar-General may then register him as the child's father.

There is no need for the mother to agree, and the mother can dispute the fact that the individual claiming to be the child's father is indeed the rightful father of the child. If the Registrar-General has doubts about whether that claim is valid or not, then there are provisions for the individual claiming to be the father of the child to produce court findings that he is indeed the father. Of course, the technology that is available nowadays that has only recently in statutory terms become available can determine without any shadow of a doubt the paternity of a particular child and can resolve these disputes.

Of course I refer to the DNA technology that is becoming increasingly available for a wide variety of uses in our community, this particular area of establishing the paternity of a child being only one of them. I guess the area that receives the most publicity in terms of the use of this DNA technology is the criminal forensic area. There are a whole range of uses to which this technology has been applied, and it is widely accepted that the accuracy of that technology is such that disputes such as those addressed in this legislation are resolved beyond question.

The births, deaths and marriages register is also used by an increasing number of people who seek to research their family history. I think that is becoming almost a need for a lot of people. It is becoming a need that a lot more people seem almost to be afflicted with in some cases. People need to be able to research their family history. I know many people who spend a great deal of time and money researching their family trees. These births, deaths and marriages registries and all of the registries that preceded them are particularly valuable in that quest to establish an individual's family tree. Some of the early registries are particularly valuable now in individuals' quests for information. I think people who are interested in that type of research are particularly indebted to some of the religious organisations and some of the churches which kept those early records. Some of those early parish records are now the basis upon which this type of family tree research can be conducted.

This legislation quite properly recognises that need for information is not likely to diminish in the future and it sets out to provide assistance for those people who in quite a few years to come, in 100 years time or even longer periods, will be researching the births, deaths and marriages that are occurring at the present time.

The bill allows the Registrar-General to enter into arrangements with organisations that will enable them to supply database lists to the Registrar-General for cross-checking. Some examples given by the Attorney-General of these arrangements would include data matching for the Department of Families that would allow the name of deceased persons to be culled from the register for seniors card holders and could work for various shire councils and local family history associations in identifying the names of people buried in rural cemeteries. So there is recognition by the drafters of this legislation that a need to research will exist not just by people trying to establish their family histories but also by a range of other organisations within the community.

New provisions of the legislation will allow the Registrar-General to also release demographic information to organisations researching particular causes of death in certain areas and people looking to establish patterns that may be the result of particular situations. Once again, there is this need to protect the privacy of individuals. I think the legislation does that adequately through section 46 of the bill, which protects the privacy of individuals to whom that information relates.

There are strict conditions that apply under that section to the Registrar-General when he is giving someone that information or access to that information. So once again we have this balancing situation which needs to be achieved by the drafters of the legislation, and I think in this particular bill that balance has been adequately struck between those that require access to that information and the people who are affected by it who want to be confident their privacy is respected.

The bill also contains provisions in relation to cause of death certificates, and this is probably an area that is not quite so easy to talk about. However, it is an area that is just as important as the registration of births and marriages. The cause of death needs to be registered by the Registrar-General under the provisions of this new legislation, and the bill clarifies the obligations of doctors when issuing cause of death certificates. It sets out obligations and processes that doctors need to be observant of before issuing a cause of death certificate, and those obligations and processes are not specified in the current act. It obliges doctors to issue certificates only when they are able to form an opinion as to the probable cause of death, and the current act is silent about doctors' obligations and their obligations to undertake a meaningful assessment of the probable cause of death so that suspicious deaths are recognised and the appropriate investigation carried out.

The legislation in the bill before the House sets out how doctors can form an opinion as to the probable cause of death, and the minister referred to them in his second reading speech. They are by having attended the deceased person when the person was alive or examining the body or considering information about the person's medical history and the circumstances of the death.

The legislation also seeks to simplify the relationship that exists with the Coroners Act 2003 in that section 30 clearly sets out a prohibition in the Coroners Act that a doctor cannot issue a certificate if the death is a reportable death. So there is a need to ensure that this legislation is also in accordance with other statutes. This will ensure that deaths are not needlessly reported to the coroner but suspicious deaths are recognised as situations that need to be investigated.

I think all of us within the community would recognise the necessity for that, even though it is an area that none of us particularly want to spend too much time dwelling on. However, there needs to be processes in place to ensure that that area is administered properly. Once again, the opposition has no issues with the way that the legislation is drawn up, and we believe that the legislation adequately addresses those issues that need to be addressed.

The other issue in relation to recording and registering deaths is the new provision within this legislation which allows for the recording of de facto status on death certificates. Once again, the same issues apply in regard to the changes in the community within which we live.

An increasing number of people are living in de facto type relationships. For people who are in those relationships they are seen to be, for them at least, of equal status, and there needs to be a

recognition for the same reasons. If the marriage status needs to be recorded, then the de facto marriage relationships need to be recorded.

The legislation will mean that death certificates will show the marital status of a deceased person, irrespective of whether it is a formal marriage situation or a de facto situation. Once again the opposition supports the move in that direction, which is a response to the changes in the communities within which we live. It is consistent with the government's policy in relation to de facto relationships, and the opposition supports the recognition in this particular instance of those relationships.

As I said at the beginning of this contribution, the shadow Attorney-General is certainly supportive of this legislation and is only too pleased to offer bipartisan support to the Attorney-General in its passage through the House. He has, on examination of this bill, advised the opposition that it is a good piece of legislation, that it is worthy of our support, and I am only too pleased to offer that support to the legislation on its passage through the House tonight.