Speech by

Ian Berry

MEMBER FOR IPSWICH

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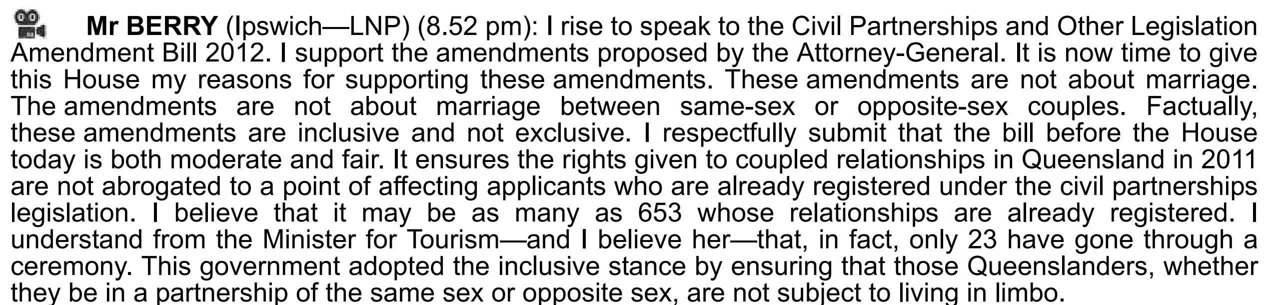
CIVIL PARTNERSHIPS AND OTHER LEGISLATION AMENDMENT BILL



Mr BERRY (Ipswich—LNP) (8.52 pm): I rise to speak to the Civil Partnerships and Other Legislation Amendment Bill 2012. I support the amendments proposed by the Attorney-General. It is now time to give this House my reasons for supporting these amendments. These amendments are not about marriage. The amendments are not about marriage between same-sex or opposite-sex couples. Factually, these amendments are inclusive and not exclusive. I respectfully submit that the bill before the House today is both moderate and fair. It ensures the rights given to coupled relationships in Queensland in 2011 are not abrogated to a point of affecting applicants who are already registered under the civil partnerships legislation. I believe that it may be as many as 653 whose relationships are already registered. I understand from the Minister for Tourism—and I believe her—that, in fact, only 23 have gone through a ceremony. This government adopted the inclusive stance by ensuring that those Queenslanders, whether they be in a partnership of the same sex or opposite sex, are not subject to living in limbo.

There have been in some quarters opposition to parts of the Civil Partnerships Act 2011. It is not unusual or unexpected for there to be opposition. However, the Attorney has given air to the proponents who feel there ought to be a measured approach to this emotive issue. This government has consulted the stakeholders. It received and critically determined those parts to which there was considered opposition to the act. This approach by the government again was balanced and has an inclusive effect. Queensland, by virtue of the Australian Constitution, does not have the power to make laws about marriage. If there was an expectation in our great state that it can, then here and now it must be made clear that marriage and possibly anything resembling a marriage may be unconstitutional. Our forefathers envisaged marriage as being a federal responsibility. The federal government is now exercising that constitutional obligation to consider same-sex marriage as we speak in the House now. I emphasise that it is not the constitutional obligation of this government and, in fact, the Constitution prohibits the state meddling in marriage matters. The previous act gave uncertainty to this legal position. It was not fair for couples to be confronted with the prospect that at a future time the High Court may be required to rule on a challenge to the legislation as it stood prior to these amendments.

In speaking to the House today it is unnecessary to consider the philosophical, moral or personal views of the stakeholders in this debate. The existing legislation has established a framework, albeit flawed, that underpins the registration of relationships. Therefore, my speech on the subject to the House deals with the political changes which will make the legislation work more effectively, more fairly and more inclusive and at the same time possibly save parties, particularly in a failing relationship, substantial sums of money. It was flawed, as this government is faced with an act which was rushed through parliament when the people of Queensland knew that an election was imminent. Many Queenslanders openly expressed their cynicism to the legislation being proclaimed so hurriedly, so quickly and veiled with really little debate. Of course, we now know Treasurer Fraser had a motive to be a champion for a cause. So why did it take so long for the Labor government to introduce this legislation? Same-sex relationships have been subject to many pieces of legislation in Australia for quite some time. Matters concerning same-sex relationships, such as the Property Law Act 1974, were amended in 1999. Part 19 was inserted in 1999. This issue is not new. One of the main causes of part 19 was to facilitate the resolution of financial matters at the end of a de facto relationship. It also gave authority for parties to determine whether they were in a

de facto relationship. Even with this patchwork of legislation, couples required a certain level of certainty not only in respect of their legal position but also in respect of the state. This certainty needed balance between the men and women of Queensland who on the one hand hold marriage between two adults of the opposite sex as being sacred and sanctified by God and on the other hand those adults who have strong bonds which ought to be regulated. Some of the people who hold those beliefs and strong bonds are commonly in what we have referred to today as same-sex relationships. These amendments not only achieve the balance but—and I repeat—they are inclusive.

Let me explain why these amendments bring about balance and inclusion. However, before I do so, I call on some history to assist me in explaining balance and inclusion. Each of us have our views on history and how history records the trials and struggles of people for the attainment of rights. One example in history that is giving me momentum to illustrate this balance is women's suffrage. Suffragettes campaigned, protested, cajoled for the right to vote. It was a momentous struggle and one that allowed us to applaud the women and men who believed in the cause.

A further incident having occurred in the public gallery—

Mr DEPUTY SPEAKER (Mr Krause): Order! Attendants, could you please remove that individual from the gallery. Members, we will hear the member for Ipswich. Members of the public gallery, we will hear the member for Ipswich in silence.

A further incident having occurred in the public gallery—

Mr DEPUTY SPEAKER: Order! If the attendants could try as calmly and peacefully as possible to please clear the gallery. If we could kindly ask those in the gallery if they could leave. If those in the gallery could please leave quietly and peacefully.

Whereupon the public gallery was cleared.

Madam SPEAKER: I call the Attorney-General.

Mr BLEIJIE: I thank all honourable members for their contributions on the debate tonight. Tonight what we have seen in the debate is exactly what the member for South Brisbane set out to achieve. The member for South Brisbane was sitting up in the public gallery orchestrating that. We saw the member for South Brisbane sitting up in the—

Honourable members interjected.

Madam SPEAKER: Order! I will have order in this House. Members will resume their seats. I expect members to conduct themselves with decorum, even if others do not respect this parliament and the rights of parliamentarians to conduct themselves in this place.

Mr WELLINGTON: I rise to a point of order. Madam Speaker, can you please clarify: you have called the Attorney-General and I understand that that has now closed the debate. We were allowing the courtesy of awaiting advice from you so that the next people scheduled to speak could speak.

Madam SPEAKER: Member for Nicklin, please resume your seat. We are not closing the debate. I was hearing the Attorney-General. A member was still on his feet before the disruption in the chamber. I will be resuming the debate with the member who was previously on his feet before the disruption in the chamber.

Mr WELLINGTON: Thank you, Madam Speaker.

Mr BERRY: Madam Speaker, I do not want to make light of a moment so serious involving democracy, but I have not had this sort of reception since I was an Australian Rules umpire in 1974, I think at Sandgate. Let us leave that aside.

The bill does not interfere with the rights of couples to partake in a ceremony of their choosing amongst family and friends. It allows the couple to make the ceremony without unnecessary interference from the state.

Allow me to canvass the parts of the amendment bill that are important to state and consider. Registered relationships require a registration with the registrar, preceded by a cooling-off period. There is nothing new there except for clause 9, which refers to section 6 of the act. It is amended only by omitting the element of the necessity of a formal ceremony. This ceremony was required for the relationship to be valid. I respectfully submit that the reason for my belief that it is balanced is that it is a necessary element to a registered relationship. I am sure all couples availing themselves of the amendment will see the economic sense of not being forced to have a ceremony. I say, with some tongue in cheek, that this saving perhaps might go towards the carbon tax that all Queenslanders will end up paying after 1 July.

It is inclusionary because the registration of the relationship will now be much more simplified and less discriminatory. Those couples who do not want or cannot afford a relationship celebrant will not have to pay for one. This amendment bill is all about choice. A registered relationship can now be terminated without the need to apply to a District Court. Under the act, if a party had a dispute with the other party,

effectively the District Court was the forum for a judicial decision. These amendments bring balance back into people's lives. The Attorney-General has provided us with that balance. As a solicitor, the Attorney-General knows the cost of legal proceedings. He knows the cost of filing an initiating application in the District Court. As it stands now, it is $692. If a couple wishes to terminate their relationship, they need to make an application. The application is made to the District Court and they must pay a filing fee, leaving aside any legal costs, of $692.

But hold on, there is more. The Attorney-General knows that to have the initiating application set for hearing it will attract a setting-down fee of $1,125. Again, that is besides the legal costs. If the application proceeds to a trial, after the first day the daily hearing fee is $450 per day. After the fourth day, it is $810 per day. If the application proceeds beyond nine days, it is $1,575 per day. I mention those things because those were the filing fees increased by the Labor government in 2011. Those fees are astronomical. I use the term 'astronomical' because the Premier and the Treasurer both commented on the height of Queensland's debt. I remind the House of the image: if $100 notes were stacked so that their value amounted to $100 billion, the height of the stack would be into the stratosphere. These two measures alone will save some registered relationship parties who intend to terminate their relationship legal costs, filing fees and outlays in the vicinity of possibly $10,000 and beyond. Under the amendments proposed by clause 15, under the amendment act the cost will be only a prescribed fee and possibly a stamp.

However, it has been simplified even further. What if a termination application is made by only one party? That party must serve the other party with the terminating application and a statutory declaration. The registrar then makes a decision to terminate the registered relationship. There is no suggestion of any payment of $10,000 in legal fees, filing fees, service fees and so forth. However, this bill goes further. It even makes service of the application and statutory declaration uncomplicated. It sets out the means by which you can serve the other party.

Put very simply, it is a fair and balanced bill. The transitional provisions unequivocally state that a civil partnership now in existence can be a registered relationship—a simple name change. There is nothing complicated about that. Amendment clause 40 gives further strength to the fairness of the relationship by ensuring that an application in the process of being considered but not decided upon will be registered as a registered relationship.

Amendment clause 41 again complies with the fairness test. If applicants give a notice of intention under former section 10 and there is not any declaration under former section 11, the notice of intention will be deemed to be an application for a registered relationship. If both applicants want their registered relationship to be recrystallised then and there, after the registrar receives the notice and within 90 days either party can lodge a withdrawal notice, but, on the other hand, both parties can apply to abrogate or abridge the 90 days.

Amendment clause 45 gives further efficacy to fairness by ensuring that technicalities do not fetter or hinder a registered relationship, or a civil partnership under the old act, from becoming a registered relationship.

I commend the bill to the House, because it delivers to the people of Queensland a better law, a fairer law and a law balancing the interests of all Queenslanders. These amendments are inclusive because they deliver cost savings with dignity while, at same time, protecting the sanctity of marriage by ensuring that the marriage ceremony, traditional to marriages under the Marriage Act, continues. The amendment act does not prohibit the celebration of successful registration of a registered relationship. I emphasise that it demeans the debate to suggest otherwise. The bill is very clear.

The amendment bill gives registered relationships a simple, quick, cost-saving measure for couples to regularise their relationship. I congratulate the government, and in particular I congratulate the Attorney-General, for quickly providing certainty to all and at the same potentially saving substantial money for Queenslanders. I commend the bill to the House.