

Title: Outcome of debate on same-sex parenting rights bill

Author: Fred Nile

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The Rev Fred Nile, Leader of the Christian Democratic Party, has issued an explanatory note on the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008 that was passed in the NSW Parliament on Tuesday 4th June 2008.

“There has been a great deal of confusion surrounding the ‘Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008’ that came before Parliament last week. The Government Bill amended 57 different Acts and many consequences could only be fully appreciated by analysing the interaction between the various Acts of law.

The most significant amendments made in the Same Sex Relationships Bill were to:

- Anti-Discrimination Act 1977 No.48, that made it an offence to “discriminate” against Lesbian same-sex parents.
- Births Deaths and Marriages Registration Act 1995 No.62 and Births Deaths and Marriages Registration Regulation 2006, that introduced the right for two “mothers” to go on the Birth Certificate, “the woman and birth mother” / no “father” and removed the terms “father” and “mother”, referring instead to “parents”
- Status of Children Act 1996 No 76, that made a defacto Lesbian partner (ie not the “birth mother”), the presumed parent of a child conceived through a fertilisation procedure if she had provided consent to the procedure.
- Industrial Relations Act 1996 No.17, that in relation to parental leave, replaced all reference to “paternity” / fathers with the non-descript term “partner”.

Notwithstanding the significant ethical concerns I had with affording lesbian defacto partners the same legal status as biological fathers and the undermining of traditional family values in the process, there were significant concerns regarding the supposed operation of the legislation and the rights of parents, particularly fathers.

I went to considerable lengths to warn the public of these concerns and encouraged Members of Parliament to vote against the Bill. I also encouraged them to give speeches opposing the Bill.

I was pleased to receive submissions opposing the Bill from the Anglican Archbishop of Sydney, Peter Jensen, Cardinal Pell’s Catholic Diocese of Sydney, NSW Baptist Union and the NSW Council of Churches representing the Anglicans, Presbyterians, Church of Christ, Congregational, Salvation Army, Reformed, etc, in addition to the Fatherhood Foundation, Shared Parenting Council of Australia and Men’s Health Australia.

Considering the complexity of the legislation I moved to have the Bill referred to the ‘Law and Justice Committee’ to examine all intended and unintended consequences. This strategy would have also delayed the

Bill indefinitely to allow further consideration by Churches, lawyers, etc. At 10.57 pm Tuesday June 3rd 2008, the Upper House rejected my motion by 34 votes to 7. The seven supporting Members were Ms Ficarra, Mr Gallacher, Mr Mason-Cox, Mr Clarke and Mr Lynn from the Liberal Party, Rev Dr Moyes and myself.

The Bill then moved to the Committee stage with the support of the majority of the House, including the ALP, Greens, Nationals and majority of Liberals. At 11.03 pm Tuesday June 3rd 2008, the Green Party moved amendments to legalise Homosexual adoption but were defeated 37 votes to 4.

I then gave notice of these two amendments to the Anti-Discrimination Act:

No. 1 Page 4. Insert after line 2:

(8) Section 56 Religious bodies and convictions

Insert at the end of the section:

(2) Nothing in Part 4 renders any act done by a person on the ground of a woman's de facto relationship with another woman unlawful if the act was motivated by the religious convictions of the person.

No. 2 Page 4. Insert after line 36:

Item 1 of the proposed amendments ensures that nothing in Part 4 will render any act done by a person on the ground of a woman's de facto relationship with another woman unlawful if the act was motivated by the religious convictions of the person.

However, I was advised by the Clerk that they were "outside the leave of the objects of the Bill". If I wished to move them in Committee stage then I had to get permission before the House went into Committee. The motion to allow me to later move my amendments was defeated on voices. My intent was to provide a defence for Christians who were compelled by their Christian conscience to support the role of fathers.

At this juncture I moved a further nine amendments in an attempt to address some of the concerns.

The first dealt with the changes to the Anti-Discrimination Act. The Government's Bill had included the term "Domestic Status", really 'Domestic Lesbian Relationship Status', which included the new Lesbian parental relationship. The effect of this was that under several sections, certain actions were to now be regarded discriminatory towards Lesbian couples. So for example, Father's day functions, groups and events, etc could be regarded discriminatory due to the nature of a Lesbian's sex and thus same-sex relationship status. Lesbians could use this section to harass fatherhood type events, actions or statements.

My amendment sought to remove the whole Schedule of the Government's Bill that dealt with this area, but it was defeated.

My second amendment dealt with the Births Deaths and Marriages Registration Regulation 2006. I proposed an amendment that retain reference to the term father and allowed both mothers and fathers to be known as such on the birth certificates if they so wished. This was passed unanimously.

No. 2 Page 13. Insert after line 17:

(7) Clause 5 (3)

Insert after clause 5 (2):

(3) If the particulars supplied to the Registrar under section 14 of the Act specify that:

- (a) a parent who is the father of the child wishes to be identified in the register as the father, or*
 - (b) a parent who is the birth mother of the child wishes to be identified in the Register as the mother, or both,*
- the particulars entered in the Register under section 17 of the Act must identify the parent as the father or mother, as the case requires.*

This subclause does not limit the particulars which may be included in the Register.

Amendments three to nine dealt with the Industrial Relations Act which replaced “paternity leave” with “parental leave”, again removing recognition of the father’s role. My amendment ensured that “paternity leave” for fathers was retained. This was passed with support from all but the Green Party members.

Debate on the Bill In the NSW Legislation Council concluded at 11.25pm, Tuesday June 3rd 2008 and passed through remaining stages. The Bill House finally rose at midnight. I remained, as usual, in the House during all this time except when I had to leave the House briefly to finalise my amendments with the Minister and his staff. The Bill was passed by the NSW Legislation Assembly at around 8.30 pm Wednesday June 4th 2008 by 64 votes to 11. Unfortunately, some Members now voted for the Bill because of my successful amendments.