

SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—SUPERANNUATION) BILL 2008

Second Reading

[Mr ROBERT](#) (Fadden) (5.31 p.m.)—The government's [Same-Sex Relationships \(Equal Treatment in Commonwealth Laws—Superannuation\) Bill 2008](#) is proposing to provide equality of treatment between same-sex couples and opposite-sex de facto couples in nine pieces of legislation. This is apparently the precursor to a larger, omnibus bill that is seeking to amend a raft of Commonwealth legislation to remove discrimination against people in same-sex relationships. Whilst not denying the government a second reading of the bill, I strongly support the coalition putting this bill to the Senate Standing Committee on Legal and Constitutional Affairs for greater scrutiny and amendment if needed, as I have significant reservations about the wording of the bill. The bill in its current form is not supportable—though, in fairness to the Attorney-General, this may just be due to drafting.

By way of background, the Liberal Party is the party of the individual, of free enterprise, of opportunity. We believe in families as the bedrock of this nation. We believe that marriage is between a man and a woman. We do not believe that gay marriage, gay adoption, gay surrogacy and gay IVF should be permitted. This is based on the firm conviction—we believe, shared overwhelmingly by ordinary Australians—that children do best when raised by a mum and a dad and that nothing should be done by the parliament to make it likely that more children will be raised by same-sex couples, who by definition cannot provide a child with a mum and a dad. I fully support these views and will defend them in this House till I draw my last breath. I will not support anything that seeks, even in small part, to undermine marriage as being anything other than between a man and a woman.

I do support financial and property justice for all people, regardless of their interdependency, sex, colour, creed or sexual orientation. You should not have to pay a single dollar more in tax or receive a dollar less in government support just because you are living in an interdependent relationship, such as two sisters living together, a disabled person living with a family or those in a same-sex relationship. Financial and property justice transcends all of these issues. Yet there are elements of what the government is proposing that, on the surface, are of concern.

Firstly, this bill is being debated in isolation, not in cognate with the other, omnibus bill that is soon to follow. This body of legislation deserves to be debated in cognate, as a whole, so the full impact of what is being proposed can be evaluated. The government has flagged something like 100 pieces of legislation as needing amendment, yet the Human Rights and Equal Opportunity Commission's National Inquiry into Discrimination against People in Same-Sex Relationships only listed 58 laws. Thus, some could treat this series of bills with suspicion because the number of laws has increased by 42.

Secondly, this bill is being rushed through the House as part of 22 bills that the government want pushed through in a few days, even though the Senate cannot review them until 16 June. The question is: why rush this bill? If it is so important, why wasn't it tabled months ago instead of today, in June? Why try and push it through with a raft of other bills?

Thirdly, I contend that the overall issue is not about same-sex relationships but about interdependent relationships, of which same-sex relationships are but a subset. Two sisters living together or a disabled person living with a loving family—all sharing finances and expenses, domestic requirements and for all purposes living interdependently—are as deserving of changes to Commonwealth legislation as two women engaged in a sexual relationship. This bill should not

just be for same-sex couples; it must recognise the wider issue of interdependent relationships.

Fourthly, this bill is seeking to achieve its aims through removing all references to 'marital relationship' and replacing them with 'couple relationship', and replacing 'husband', 'wife' and 'spouse' with 'partner'. The explanatory memorandum states:

The inclusion of same-sex relationships within this definition is not intended to change the treatment of married or opposite-sex de facto couples. It removes same-sex discrimination but does not change or re-define any other indicia of a relationship.

Whilst taking the Attorney-General's comments through the memorandum at face value, this seems illogical. It is hard to see how removing references to marriage through as many as 100 bills does not slowly chip away at the institution of marriage.

It is interesting to note that justice in superannuation and indeed other acts may be able to be achieved by simply adding a new category, such as interdependency, into the relevant laws. There would not appear to be any need to undermine 'marriage' through removing all reference to marriage, wife, husband or spouse.

Fifthly, according to the second reading speech, the bill proposes to redefine a child as 'a product of a couple relationship where one partner is linked biologically to the child or where one partner is the birth mother of the child'. The impact of this depends on the existing definition of a child in each affected law. If there is a presumption that a child has one father and one mother then this will be an undesirable move, as the existing definition will be replaced. This change could directly favour and support the practice of 'gay IVF' by proposing to treat the lesbian partner of a woman who has a child by artificial insemination or IVF as a legal parent for the purposes of all Commonwealth law. The changes may also propose to treat all de facto partners—opposite sex and same sex—of people with children as having a step-parent relationship with their partner's children. At present only marriage creates a step-parent/step-child relationship.

Given the higher break-up rates and shorter duration of non-married relationships, especially same-sex relationships, compared to marriages, I do not believe this measure is in the best interests of children. Children whose biological parent or parents participate in a series of de facto—opposite sex or same sex—relationships could accumulate an indefinite number of legally recognised 'step-parents' under the current wording. Any such legal recognition of a parent-child relationship would, unless statutory provisions to the contrary are explicit, survive the break-up of the relationship between the child's biological parent and the 'step-parent'. This has serious implications for family law as each 'step-parent' could potentially be able to advance a claim to access or even gain custody of the child. Having a sexual relationship with a child's parent should not be sufficient grounds for acquiring legal status as a parent of a child! Our children deserve greater protection than that.

Lastly, private organisations such as health insurance funds should not be legally bound to recognise homosexual couples and children as families. Some funds may have an ethical objection to this and they should retain the right to uphold their views of what constitutes marriage and family life. Market forces will regulate this, as they do at present, as some funds provide for homosexual families and others do not.

I support the coalition's intent to move this bill to the Senate Standing Committee on Legal and Constitutional Affairs for consideration and amendment if needed, as the bill in its current wording is unsupportable.