

**ACTS AMENDMENT (EQUALITY OF STATUS) BILL 2002**

*Second Reading*

Resumed from 11 September.

**MS S.E. WALKER** (Nedlands) [7.13 pm]: I rise on behalf of the Opposition to state that we do not oppose this Bill. The Bill follows on the heels of the Family Court Amendment Bill 2001 and the Acts Amendment (Lesbian and Gay Law Reform) Bill 2001, which were opposed by the Liberal Party. I personally supported the Family Court Amendment Bill for the comprehensive reasons outlined in my contribution to the debate, and opposed the Acts Amendment (Lesbian and Gay Law Reform) Bill. The reasons that the Opposition opposed those Bills are also comprehensively outlined in our debates. The Attorney General, in his second reading speech, said -

Labor is committed to ensuring that all members of the Western Australian community are equal before the law.

To that end the Attorney General said that Labor opposed discrimination for a variety of reasons.

Opposition members and I take a different stand on what we regard as misguided ideology - in many cases to garner more adult votes - that does not take into account the damage some of these policies can have on children. An example of this is the lack of proper intellectual analysis of Labor's support for a restriction on the age of an adoptive parent but no restriction on the class of person who can adopt a child. We heard a very real and genuine recounting of your experience, Madam Deputy Speaker, during debate on the Adoption Amendment Bill (No. 2) 2002. I do not mean to be offensive by raising what you said; it was very compassionate and I was very interested in what you had to say.

I referred to the Adoption Act 1994 because there were four reasons that the Opposition opposed the Acts Amendment (Lesbian and Gay Law Reform) Bill 2001. One reason for which I argued very strongly was the amendments in that Bill to the Adoption Act and their impact on children. When the adoption Bill was on foot, Madam Deputy Speaker, you said -

The Bill is constructed in a way to maximise the best placement for the child . . . this is not a service for adults who want to care for a child . . . It is in the best interests of the child to be placed with adoptive parents whose age profile does not significantly differ from that of the general population. The age criteria do not discriminate . . . it applies whether they are straight or gay;

I am not targeting you, Madam Deputy Speaker. I draw on these matters because you spoke from experience. My concern about the lesbian and gay Bill was its effect on children.

I raise this matter now because the Opposition does not oppose this Bill, as it follows legislation that has been passed already. However, Madam Deputy Speaker, you said that your adoptive parents were older than the normal age profile of adoptive parents and, although they were excellent parents, you felt the odd one out. You said you sustained hurtful comments, embarrassment and communication problems, because of the age difference between you and your adoptive parents, and the fear of losing them or having to care for them. I do not recall whether you said you did have or did not have the experience of grandparents, but you said that your children did not have that experience.

On the other hand, Madam Deputy Speaker - you can correct me - I think you and other members voted to allow same-sex couples the right to adopt children. Your experiences can be compared with the suffering that the children of same-sex couples will go through because, in your words, they will be different from the general population. For those reasons we opposed the lesbian and gay law reform Bill and I feel very strongly about that.

I voted against the Adoption Amendment Bill (No. 2) 2002. In my opening comments I said that although the Opposition had four issues of concern, my major concern centred on the amendments to the Adoption Act which would allow same-sex couples to adopt children thus subjecting these children to hurtful comments, alienation, ribbing, embarrassment and communication problems. It seemed strange to me that government members were prepared to protect the interests of children by ensuring that the age of their adoptive parents did not significantly differ from parents in the general population, but they were not prepared to protect the interests of children in relation to the gender of their parents. Why?

Perhaps the Attorney General can help on this matter - here we go again! The Attorney General wanted the one vote, one value legislation passed and Hon Giz Watson for the Greens (WA) wanted to adopt her partner's children. I do not know whether that had any significance; I suspect it did. Perhaps it is as selfish as that; I do not know. The point is that that provision was snuck in among amendments to 18 other Acts in the Acts Amendment (Lesbian and Gay Law Reform) Bill. I say at the outset, as I have always said and done, that there

should be no discrimination against gay and lesbian people. The Opposition accepts that. However, that legislation opened up the adoption of children to gay and lesbian couples. Adoption is a time when children are already vulnerable, in my view, to the same sorts of -

Ms M.M. Quirk: Vilification, vitriol?

Ms S.E. WALKER: I thank the member for Girrawheen. Is she reading from her computer game?

Ms M.M. Quirk: No, I am listening to you, member for Nedlands.

Ms S.E. WALKER: The member for Girrawheen never gets up to say anything of significance in this House. She just sits there. I know she has games on her computer. I am talking about children, and I am being sincere. I do not want her drivel.

Ms M.M. Quirk interjected.

Ms S.E. WALKER: I thank the member for Girrawheen! I do not want her drivel! I am talking about the adoption of children. Those children start off in life disadvantaged. I am speaking on behalf of the Opposition on this Bill, and I want to make that point. When I travelled to Merredin for the by-election in that seat, I heard Liam Bartlett speak on his ABC radio program to a young woman who was conceived through in-vitro fertilisation. I raised that issue during the debate on the Acts Amendment (Lesbian and Gay Law Reform) Bill. That woman spoke about the disadvantages she now suffers from being conceived through IVF. She does not know 50 per cent of her parentage. She had spoken to other IVF children. Although she was loved by her parents, the other two children of her family were also conceived through IVF, and were not from the same parent. They have problems. Rather than looking at this situation from what the adult gets, as you said, Madam Deputy Speaker, we should look at what the children will suffer because their circumstances are not the same as those of the general population. In my view, and all things being equal, we owe it to children to give them the very best opportunities when we pass legislation in this Parliament.

I know mums who are single parents. It is interesting that they get a bit defensive when I raise this issue with them. I have asked those mothers where they would like their children to be placed if the mothers died. They say that they would want them placed with a mum and dad in a nice, loving environment. That is interesting. That cutting edge legislation was never discussed in the community. However, it demonstrates how people in power can get it wrong and perhaps pursue selfish interests.

The Opposition supports this legislation. During debate on the Acts Amendment (Lesbian and Gay Law Reform) Bill, we raised concerns about IVF, the age of consent and the level of education in our schools. When the Attorney General introduced the two Bills - the Acts Amendment (Lesbian and Gay Law Reform) Bill and the Family Court Amendment Bill - he foreshadowed that other legislation would need to be amended once those Bills had been proclaimed. This is the Bill that deals with those amendments. At first glance, this Bill is seen to amend 62 Western Australian Acts. However, part 39 shows that it amends a lot more. This Bill seeks to amend certain Acts that give legal recognition to people living in various types of relationships. There are many examples of that. We will speak on the third reading of this Bill, but not for long. During consideration in detail I will ask about some Acts that will be amended. I would like an explanation and some reassurance from the Attorney General on what, for example, the amendments are to sections 531 and 684 of the Criminal Code. Section 684 of the code deals with the effect of conviction and imprisonment on a prisoner's property. The Bill seeks to remove the word "wife" and replace it with the word "spouse". The word "spouse" will not be inserted in section 531 of the code, because that term is not included in the definition section. I would like to touch on a few of the Acts. We can go to the consideration in detail stage. Although the Opposition wants to look at a few of the Acts, it will not oppose the legislation.

**MR J.A. MCGINTY** (Fremantle - Attorney General) [7.24 pm]: Again, I thank -

Mr R.F. Johnson: We are being very cooperative.

Mr J.A. MCGINTY: Incredibly!

Mr R.F. Johnson: That is the kind of guys we are.

Mr J.A. MCGINTY: All I can say is that there must have been something in the water at dinnertime.

Mr R.F. Johnson: Not at all.

Mr J.A. MCGINTY: I thank members opposite for their indication of support for this legislation or, at least, that they will not oppose it. This Bill will put Western Australia into what I believe is a unique position in which we will be able to say to the rest of the world, and certainly to the other States, that we do not have a single law on the statute books that in any way, shape or form discriminates or allows discrimination against gay and lesbian people in Western Australia.

Mr R.F. Johnson: You are very proud of that, are you not?

Mr J.A. McGINTY: I am remarkably proud of that.

Ms S.E. Walker: You shouldn't be.

Mr A.J. Carpenter: You should be proud of that. We are all proud of it.

Mr R.F. Johnson: We do not want to discriminate against them in the ways that have been said. They should not be discriminated against, but you have gone just that bit too far. You are now positively pushing them forward in other areas. We will always have a difference of opinion on those.

Mr J.A. McGINTY: Is the member finished?

Mr R.F. Johnson: Yes, we have had our little burst.

Mr J.A. McGINTY: I say with some pride that we will not have a discriminatory law on the statute books. I appreciate that that goes a bit further than the Opposition's horizons would allow. However, I expect members opposite to object to nothing or very little in this legislation on the basis that it removes discrimination in each of those areas. Some of those are profoundly important. Others, I believe, are more symbolic or token in their practical impact. Nonetheless, it is an achievement of which I will be very proud for a long time. That is my view of the world; it is not the view of members opposite.

Mr R.F. Johnson: It is going to make your Christmas.

Mr J.A. McGINTY: Well, maybe.

Ms S.E. Walker: I will give you a big tick for repealing the Parliament (Qualification of Women) Act 1920.

Mr R.F. Johnson: You get a few things right.

Mr J.A. McGINTY: Oh, yes. This is really the third of three Bills insofar as gay and lesbian people are concerned. The gay and lesbian and Family Court Bills were the first to come into effect. This is the third. From the perspective of members opposite, had we extended reform this far and no further, it would not have engendered the broad public debate that took place, and we could probably have broadly agreed on it as an appropriate thing to do to remove discrimination. Nonetheless, it was the Government's policy position to go further. I am very proud that we took that step forward and are able to say that we welcome gay and lesbian members into our community as full citizens without any law that discriminates against them or prevents them from full participation in our community. Nonetheless, there is not much point in pursuing that any further. That is the Government's view; it is not the Opposition's view.

Ms S.E. Walker: No, our view is that we did not oppose ending discrimination against gay and lesbian people. We were concerned about the impact on children of IVF, adoption, the age of consent and education. We felt that the Bills were pursued by you and your Government in a trade-off with the Greens.

Mr J.A. McGINTY: In relation to the suggestion that there was some trade-off with the Greens, I regard most of the Greens as good friends of mine. I have been a little disappointed with them in recent weeks, but, nonetheless, I still like them as people and they are still good friends. One thing that I do know from dealing with the Greens over a long period is that one does not horse-trade with the Greens and one does not have packages of deals that involve consideration outside of what one is immediately dealing with. Over the electoral matters, we never once stepped outside of the electoral laws in the package we could mutually support. I know there was a suggestion that there was some trade-off of adoption laws for one vote, one value. I assure members that I never raised that; it was not part of the equation. I knew that I would have been give short shrift if I had raised it. Each of those matters was considered on its own merits.

Ms S.E. Walker: There is an inconsistency in the policy of the Labor Government on children and adoption. I do not know how that can be explained away, but at least on this side we are consistent - we put the children's interests first.

Mr J.A. McGINTY: As indeed does the Government. The interests of the child are the only consideration, not irrelevant factors like the sexual orientation of the adoptive parents.

Ms S.E. Walker: The Attorney General obviously did not consult with his colleagues in the Parliament, because they would have told him differently.

Mr J.A. McGINTY: I will just make the point that no deal was done with the Greens (WA). That law is now on the statute books. The Greens supported it based on its own merits, and it was not related to any other matter. The passage of this Bill through the Assembly will be quite significant. It will probably not pass through the upper House before Christmas, so we will still not have a clean slate on laws in this area. This is not a Bill that deals with gay and lesbian issues. It repeals a number of other odious enactments, none more so than section 35

and associated sections of the Criminal Code, which, quaintly, allowed spouses to destroy each other's property and to steal from each other. It is a very quaint view of marriage that encompasses the notion -

Mrs C.L. Edwardes: Have you stopped that?

Mr J.A. McGINTY: I am sorry, but we have!

These anachronisms, like the Married Women's Property Act and the enactment that enabled women to run for Parliament, the doctrine of unity which underpins the common law in this area, had to be removed from our legal system. That is what this Bill does, in substance. I am pleased at the indications from the Opposition that, to the extent that the Bill is about removing anachronisms, discrimination and unfairness, it will enjoy the support of everyone in the House.

Ms S.E. Walker: That will not extend to the Crown, when you bring that one on!

Mr J.A. McGINTY: Some people might like to remain rooted in the colonial past, but not the Government. That, however, is another matter we will talk about later. I thank members for their support. I think I should sit down while I am ahead.

Question put and passed.

Bill read a second time.

*Consideration in Detail*

**Clauses 1 to 10 put and passed.**

**Clause 11: *Anzac Day Act 1960* amended -**

Ms S.E. WALKER: Can the Attorney General explain the relevance of the Anzac Day Act to this Bill?

Mr J.A. McGINTY: The amendment here to the Anzac Day Act 1960 inserts a definition of dependant, where currently there is none. Section 3 of the Act is amended by the insertion of the following definition -

**“dependant”**, in relation to a deceased person, includes a person who, immediately before the death of the person, was a spouse, de facto partner or child of the person;

The amendment to section 10(3) of the Act then deletes the words “widows and children of deceased ex-servicemen” and inserts -

dependants of deceased ex-servicemen or deceased ex-servicewomen

The intention here is to ensure that the provisions of section 10(3), which deals with money standing to the credit of the fund, will extend more broadly than was previously the case, which was to widows and children. It will now extend to dependants, and include ex-servicewomen. Dependants will include the spouse or de facto partner, and children. It broadly extends the range of beneficiaries from what was previously the case.

Ms S.E. WALKER: I note for instance, in the Criminal Code, which we will come to later, that the word “spouse” is removed in some instances, but the words “husband and wife” are retained. Across the board, there is no general definition of spouse in the Anzac Day Act, but is there a general definition that the Attorney General has been relying on, perhaps in the Interpretation Act?

Mr J.A. McGINTY: The member for Nedlands is correct in suggesting that previously an amendment has been made to the Interpretation Act to insert a definition of spouse. Spouse means married partner, so is limited to a husband or wife. The more standard wording that will be found now in legislation is “spouse or de facto partner”. For instance, in some of the Acts we will be dealing with tonight that sort of terminology will appear. It is designed to pick up married and de facto relationships as defined in the Interpretation Act. The reason for a different approach in other statutes is if, for example, there was reference only to a wife, that would be picked up to read as “partner”. If it was already written into an Act that a provision applied to a husband and a wife, there may be no need, according to the context, to amend it because it already covered all situations.

Ms S.E. Walker: Which section of the Interpretation Act?

Mr J.A. McGINTY: It is either section 3 or 4; we do not have a copy of the Act. We will try to organise a copy. I will give the member that reference in a minute.

Mrs C.L. Edwardes: Some of those amendments were dealt with in the gay and lesbian legislation.

Mr J.A. McGINTY: Yes, part of the gay and lesbian amendments were to amend the Interpretation Act.

Mrs C.L. Edwardes: That was the part put in after the Bill was introduced.

Mr J.A. McGINTY: Was it? I remember that that was the Bill in which it was done. I will get a copy of the Interpretation Act.

**Clause put and passed.**

**Clauses 12 and 13 put and passed.**

**Clause 14: *Bush Fires Act 1954* amended -**

Ms S.E. WALKER: This clause is relevant to disaster legislation. Will the Attorney General explain the effect of the clause on the Bush Fires Act?

Mr J.A. McGINTY: Local governments are required to take out insurance. People acting as firefighters who are injured as a result of bushfires are entitled to the benefits of the insurance policy. Section 37(8) of the Bush Fires Act refers to the amount of the insurance as outlined in section 37(2). In the case of a specified injury, which includes death, there is an additional amount -

... payable to the person or persons who would be entitled to receive them if a volunteer fire fighter were a worker and suffered a compensable injury under the Workers' Compensation and Rehabilitation Act 1981 ...

There is provision for the payment to extend to a spouse - that is, a married person - irrespective of dependency. The existing Act provides for payment to a dependent child. The amendment includes a married partner or spouse and a dependent child. The amendment allows for an extended range of people who can be beneficiaries or entitled under the provision; it reads -

to a person who was living in a de facto relationship with the volunteer fire fighter immediately before the death of the fire fighter and lived on that basis with the fire fighter for at least 2 years before the death of the fire fighter irrespective of dependency upon the fire fighter ...

The effect of this is that married and de facto partners, irrespective of dependency, will be entitled to insurance in the event of death or other specified injury.

Ms S.E. Walker: How was that worked out?

Mr J.A. McGINTY: I do not understand the question.

Ms S.E. Walker: If a firefighter left his wife four years ago, and two years later took up with a de facto partner and lived with her for two years, they are both entitled to compensation. How is that worked out?

Mr J.A. McGINTY: I think that is right; they are both entitled. They are both beneficiaries.

Ms S.E. Walker: I know that. How is it worked out?

Mr J.A. McGINTY: I am told that the amount of compensation or insurance payable is currently divided if there is a child and a wife. I cannot advise the member on the basis of the division. I am not sure if it is in the Workers' Compensation and Rehabilitation Act or where it appears. This amendment simply inserts another class of beneficiary so that in the case of someone who is still legally married and living in a de facto relationship and has a child, there would obviously be at least three beneficiaries.

Ms S.E. Walker: I know that but it will be a bit like contesting a will. There are no criteria. Have any criteria for division been thought through?

Mr J.A. McGINTY: Division currently would be required. I cannot put my finger on exactly how it is divided. I will undertake to provide the information to the member. I suspect it is in another Act. Because we are simply adding another class of beneficiary we did not look at the division mechanism.

Ms S.E. WALKER: The meaning of spouse is not defined. I have a copy of the Interpretation Act and I cannot see a reference to "spouse". I will pass my copy to the Attorney General. I raised this issue regarding the Criminal Code. I am a little concerned about this.

**Clause put and passed.**

**Clauses 15 to 25 put and passed.**

**Clause 26: *Coroners Act 1996* amended -**

Ms S.E. WALKER: I believe that when she was Attorney General, the member for Kingsley made significant amendments to the Coroners Act. Will the Attorney General explain how this part of the Bill impacts on the Coroners Act?

Mr J.A. McGINTY: The provision in the Coroners Act regarding who can object to the conduct of a post-mortem examination was significantly rewritten as a result of the gay and lesbian Bill of last year. However, that

provision did not contain the standard terminology that we are now seeing in most of the Acts that refer to partners and de factos. This amendment makes no change to the substantive law; it is simply a matter of standardising the terminology. It carries forward the same concepts but with marginally different terminology from that which has previously existed to ensure a standard approach.

Mrs C.L. EDWARDES: I take this opportunity to commend the coronial counselling service. I worked with many families whose sons were tragically killed in the Bali tragedy. When those young men were brought home, the victim support service and coronial counselling service became heavily involved with the families. Every family had nothing but praise for the work of the individuals in those services. I ask the Attorney General to pass on our very sincere appreciation and deep thanks for the work those services did with not only the families with which I have been working but also all those in Western Australia who were affected. They did an outstanding job and everybody is appreciative.

Mr J.A. MCGINTY: I join with the member for Kingsley in expressing those sentiments. When the House carried a resolution about the Bali bombings, a number of members and ministers spoke. I was tempted to speak on that occasion about some of the behind-the-scenes work that was done by people such as the coronial staff. However, too many other people spoke on that occasion so I decided to leave it and privately pass on my appreciation to those people who were involved - the coroner and coronial staff - and did an excellent unsung job. I will certainly ensure that they receive a copy of the *Hansard* so that they know that their contribution has not gone unnoticed. I thank the member for those comments.

Ms S.E. WALKER: I know what a delicate subject this is, and I wonder how the amended section will work. If a married person had left his or her wife or husband three years earlier and taken up with somebody else, could both the spouse and the de facto object to the post-mortem?

Mr J.A. MCGINTY: The introductory words of the provision relating to senior next of kin are important. They spell out who is entitled to object and the order in which they are to object. Section 37(5) of the Coroners Act provides who can be considered the senior next of kin. The crucial part is that the people entitled to object to a post-mortem are listed in order of priority. The person who can object in a particular case is the first person on that list who is available. Under the amendment in the Bill, the first person is the one who immediately before the death was living as the spouse of the deceased person; in other words, the person who was living as the married partner of that person.

Ms S.E. Walker: Is that irrespective of whether those people had not been living together for five years?

Mr J.A. MCGINTY: The phrase is "living as the spouse". That has two components: first, if a person is married; and second, if a person is living as such. If a person was separated but still legally married, the priority would move to the second person listed; the person who was living as the de facto partner. Failing that, it would move to the person who was the spouse but not living as such. The order of priority is a current married, living-together partner; a current de facto partner; and then a married partner who was not living with the deceased.

Ms S.E. Walker: Could the de facto partner be a person who had been living with the deceased person for two months?

Mr J.A. MCGINTY: Yes. In this case we have not inserted the two-year requirement contained in the legislation that was debated last year. We are dealing with something that is time sensitive. There would be a need to make insensitive inquiries, if I can put it that way, to establish the length of the relationship, and a decision about who should be allowed to object would need to be made within days or hours. It was thought that it would be better to leave it with a bit of flexibility. It is unlike the family law situation in which it is necessary to prove a two-year relationship to establish property rights. This relates to the right to object in a pressing situation.

**Clause put and passed.**

**Clauses 27 to 31 put and passed.**

**Clause 32: *The Criminal Code* amended -**

Ms S.E. WALKER: This is an interesting amendment to the Criminal Code. I had not realised it was included, although I am sure it is not the only one. Section 684 deals with the effect of conviction on a prisoner's property. In these amendments the Attorney General is deleting "wife" and substituting "spouse, de facto partner". I understand that. Subsection 684(3)(d) refers to the curator as "he". Does that mean "he or she" under the Interpretation Act? The Attorney General has gone to the effort of amending this section to encompass the gay and lesbian laws. That is fair enough, but he has not amended any references to the curator. Why is that?

Mr J.A. McGinty: We decided that we were not trying to desex or degender the Criminal Code.

Ms S.E. WALKER: Just marriages and relationships!

Mr J.A. McGinty: The use of gender-neutral language was not something we were trying to achieve unless a substantive entitlement was at stake. We have sought to ensure that references to male or female partners and married and unmarried people are picked up.

Ms S.E. WALKER: Does that mean that if the curator is a woman this provision does not apply?

Mr J.A. McGinty: That is picked up by the Interpretation Act that states that the use of “male” imports the “female”.

Ms S.E. WALKER: What section is that found under?

Ms M.M. Quirk interjected.

Ms S.E. WALKER: The member for Girrawheen should give it to us instead of playing games on her computer.

Mr J.A. McGinty: Under section 10 of the Interpretation Act.

Ms S.E. WALKER: Section 531 of the Criminal Code is headed -

**Secret gifts to parent, wife, child, partner, etc . . .**

Subsection (1) then states -

Any valuable consideration given or offered to any parent, husband, wife . . .

After “wife” the Attorney General wants to insert “de facto partner”. It is interesting that under section 684 the word “husband” was not inserted after “wife” and the whole lot was changed to “spouse”; that is inconsistent with the changes made to section 531 where just “de facto partner” is added instead of deleting “husband, wife”. Was that just sloppy - as I have come to expect - or convenient?

Mr J.A. McGINTY: I can assure the member that it was the latter and not the former. In section 684 of the Criminal Code the existing provision presumes that the prisoner is a male and it is only the wife who therefore is affected. I am sure, as the member is aware, that a great number of people in our prisons are not men and a great number of the partners of male prisoners are not their wives. Therefore, the changes were made in an attempt to use more contemporary terminology in the legislation.

Mrs C.L. Edwardes: Women now outnumber men in the population.

Mr J.A. McGINTY: That is right.

Ms S.E. Walker: Obviously, we are better behaved.

Mr J.A. McGINTY: I will let the member have that argument with members on her own side of the House.

With regard to prisoner’s property under section 684 of the Criminal Code, we did not want to presume that it affected a wife, which does not import the husband in the case of a female prisoner; we wanted to pick up anyone who is a spouse or a de facto partner. The husband and wife are already covered under the two subsections of section 531. The words “husband” and “wife” could have been deleted and “spouse” substituted. However, as long as the issue was substantially covered, substituting the word “spouse” would not have advanced the issue given the lack of general uniformity. We have inserted the words “de facto partner” so that this provision is an example of not only a benefit being derived but also a burden being imposed upon a de facto partner. Not all the provisions of this legislation will benefit de facto partners. This provision is a detriment and will bring within the scope of criminal law someone’s de facto partner in respect of the payment of secret commissions. It is a significant addition to the law that ensures that someone’s de facto partner is treated in the same way as their spouse. That is quite a common feature of this legislation. Many people have the impression that only benefits will be added to this legislation, but detriments will also be added.

**Clause put and passed.**

**Clauses 33 to 56 put and passed.**

**Clause 57: *Firearms Act 1973* amended -**

Ms S.E. WALKER: Can the Attorney General explain this provision?

Mr J.A. McGINTY: Section 8 of the Firearms Act deals with exemptions from licensing requirements. This amendment relates to a family member. Essentially, under section 8, no licence is required by a person who is a family member of a primary producer. Therefore, it was then necessary to define who was a family member in a way that was broadly consistent with the thrust of this legislation. A family member was defined in the existing Act to be the spouse or a de facto spouse. The terminology we are now using is “de facto partner” in order to avoid any confusion about who is a spouse. We wanted the word “spouse” to relate only to married people and “partner” to relate to de facto relationships. We have deleted the words “de facto spouse” and substituted “de facto partner” in each of the three components of the definition of a family member. It is a matter of tidying up

terminology to ensure that there is clarity about who does not need to have a gun licence if they are a family member.

**Clause put and passed.**

**Clauses 58 to 121 put and passed.**

**Clause 122: *Newspaper Libel and Registration Act 1884* amended -**

Ms S.E. WALKER: This clause fascinates me. The Newspaper Libel and Registration Act is of interest to us all, as the Attorney General will know, because he has libelled me from time to time in his press releases -

Mr J.A. McGinty: Only when it was deserved and when there was public interest in the matter.

Ms S.E. WALKER: I have not pursued the matter because I am a Christian.

Mr J.A. McGinty: I did it only once and you got the better of me in the sense that I lost my usually cool way of dealing with you.

Ms S.E. WALKER: I will not allow for any qualification. Can the Attorney General explain the reason behind this clause?

Mr J.A. McGINTY: This provision is absolutely quaint. The effect of the amendment is to delete the word "coverture" from section 7 of the Newspaper Libel and Registration Act 1884. Coverture is an aspect of the doctrine of unity of spouses. Under common law, when people got married they assumed one identity; that is, the identity of the male or husband. Coverture was regarded as a form of disability. Effectively the notion was that the woman was covered by the man. As I said, it was a disability at law. It is a quaint old notion with which we have tried to dispense.

**Clause put and passed.**

**Clause 123: *Parliament (Qualification of Women) Act 1920* repealed -**

Ms S.E. WALKER: I cannot let the Bill pass through the House without praising the Attorney General - something I have never done before - for repealing the Parliament (Qualification of Women) Act 1920. If I had seen this Act, I too would have repealed it. Section 2(1) of the Act states -

A woman shall not be disqualified by sex or marriage for being elected to or sitting and voting as a Member of the Legislative Assembly or the Legislative Council.

No matter what a woman's colour or creed, she cannot be disqualified by sex or marriage.

The Opposition does not take issue with any of the remaining clauses in the Bill.

Mr J.A. McGINTY: Happily, the Bill will be repealed. It was necessary at the time because of the result in the 1904 Western Australian Supreme Court case *Re Edith Haynes* in which the Supreme Court found that even though the Legal Practitioners Act 1893 used gender neutral language, which referred to any person being able to be permitted, there was no comprehension that it could also extend to women. That was the general approach. As times changed, that has become a barbaric proposition. However, the approach of the conservative judges of the time was to make it abundantly clear that women could, notwithstanding the view of the Supreme Court in 1904, run for Parliament. The Act was passed for abundant caution and to ensure that the rights of women to run for Parliament could not be challenged. That is the historical origin of the Act, which is quite amazing. The need for the legislation to overcome the decision in *Re Edith Haynes* has passed.

Ms S.E. WALKER: I ought not let the opportunity pass to pay tribute to Edith Cowan, who was the first female member of Parliament in Western Australia. She made significant changes to several Acts, which allowed women to attend university and to practise law. She is one of the reasons that the member for Kingsley and I are here today, although we might still have become members of Parliament had we not become lawyers. I pay tribute to Edith Cowan because her seat of West Perth has been subsumed in my seat of Nedlands. She was also the second female member of Parliament in the British Empire. Sitting in this Chamber today, it seems extraordinary that women were not allowed to sit in the Speaker's gallery. Time has moved on and I am impressed with the repeal of the Bill.

**Clause put and passed.**

**Clauses 124 to 216 put and passed.**

**Title put and passed.**

*Third Reading*

Bill read a third time, on motion by Mr J.A. McGinty (Attorney General), and transmitted to the Council.