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HOUSE OF REPRESENTATIVES

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**Family Law Legislation Amendment (Family
Violence and Other Measures) Bill 2011**

Second Reading

SPEECH

Monday, 30 May 2011

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Speaker Christensen, George, MP

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Mr CHRISTENSEN (Dawson) (12:18): In addressing the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, I have come to understand how the citizens of Troy must have felt when they were greeted with the gift of a giant wooden horse, because this bill is not what it appears. It is a Trojan horse. Just like the giant wooden horse, full of Greek warriors, in Greek legend and like an insidious computer virus, full of malicious code, this Trojan bill is loaded with consequences that will undermine some of the most basic human rights for both parents and children, and particularly fathers.

Family law is a very difficult area to legislate. There is no escaping the fact that every family is different. To create legislation that caters to all circumstances is an unlikely quest. In most circumstances, there are no winners in family law. Family breakdowns are messy. They are hurtful. They are spiteful. They are emotional, irrational and painful. The holy grail of relationship breakdowns, the amicable divorce, is rarer than a kept Labor promise.

It is in this emotionally charged atmosphere that mothers and fathers interact and children are bystanders, often witnessing behaviour by their parents at their very worst. Make no mistake: I do not object to the face-value intentions of some of the amendments in this bill. We cannot question the need to hold a child's safety in the highest regard when it comes to custody arrangements. But we can question why these amendments are being made.

The current act, introduced by the Howard government in 2006, created the 'twin pillars' of parenting provisions. These measures recognised two primary considerations for determining the best interests of the child. The twin pillars were: (a) the benefit to the child of having a meaningful relationship with both of his or her parents and (b) the need to protect the child from harm or from being exposed to abuse, neglect and/or violence—I repeat: the need to protect the child from harm. Safety concerns for the child are already in the existing legislation. It is one of two primary considerations—considerations that, yes, are given equal weight. But, in addition, the current act specifically states in section 60CG that a court must ensure that a parenting order:

(a) Is consistent with any family violence order; and

(b) Does not expose a person to an unacceptable risk of family violence.

Protection is already provided for in the act.

What this amendment proposes to do is to take a George Orwell approach to ranking considerations. When Orwell's animals in his classic novel *Animal Farm* draft their legislation on the barn wall, they affirm that 'All animals are equal'. The pigs then make an amendment: 'But some animals are more equal than others'. The pigs, of course, had an ulterior motive and I fear that there is one at play here as well. What these amendments are saying is, 'Yes, the two considerations are primary, but one is more primary than the other.' What the bill does in reality is to retain child safety as a primary concern while relegating the child's parental relationships to a minor concern. It sounds innocent enough, I suppose, but the Trojan horse here is a facade of enhancing child safety. The bill is dressed up as an attempt to protect children, which is a pointless exercise, because child safety is fully ensured in the current act. What is inside this Trojan horse, the malicious code that will infect society, is an attempt to undermine equal access for both parents. This change would invite the court to ignore the requirement to consider the second pillar—the benefit to the child of having a meaningful relationship with both parents.

The Family Law Practitioners Association of Queensland is concerned about giving greater weight to the second of the primary considerations. In their submission to the Senate Legal and Constitutional Affairs Legislation Committee, they said: 'Such a provision removes the court's licence to assess in each individual case the degree of risk, its probability or, in the case of family violence, its context in terms of frequency, intensity and recency in the determination of the weight to be given to such risk or harm.' This bill would mean that any inference of violence, proven or unproven, would have to be taken into consideration, however vexatious the claims may be. The potential danger of this change is apparent when viewed in conjunction with other changes proposed in this bill.

The broadened definition of 'family violence' would mean that a wide range of everyday activities could potentially be construed as violence. The broader definition includes as violence such things as repeated derogatory taunts. Under the proposed definition,

much of what happens right here in the parliament would be construed as violence. Also included as violence is this little nugget: 'preventing the family member from making or keeping connections with his or her family, friends, or culture.' Under this broad definition, a parent could not prevent a young teenager from spending 20 hours a day talking to friends on Facebook, for fear of being accused of family violence. What happens when a parent acts in a way that a reasonable person would describe as good parenting? What happens when a father says to his 13-year-old daughter, 'No, you can't go to Julia's party because there will be alcohol and no adult supervision'? I will tell you what happens. An upset teenage daughter talks to a vindictive mother, who then claims the daughter is a victim of family violence—and it is their right under this definition. Another child loses the right to have a meaningful relationship with her parent. Under this definition, a parent would be too scared to ground a child as punishment for bad behaviour, for fear of 'depriving a family member of his or her liberty.'

The sheer magnitude of this definition presents two problems. The most immediate problem is that living an ordinary life can too easily be construed as family violence. Adding fuel to the fire will be the actions of hurt, emotional, and spiteful former partners in stretching the truth. Tripping over the family dog will suddenly become 'intentionally injuring an animal'. Using a few poorly-chosen words a few times in an argument—which most families have experienced—will constitute family violence as 'repeated derogatory taunts'. This definition would allow everyday actions to be seized, twisted, exaggerated and used as family violence weapons in the court. What this change does is broaden the definition of family violence so much that the word 'violence' loses all real meaning. That would be a tragedy, because it would also water down the perception of family violence.

I believe that violence is violence. Violence is cruel and harmful. It is a serious problem in some families and a serious problem in the wider society. But violence is not 'grounding' a child. It is not protecting your child. Being a good parent is not being a violent parent. There is a simple solution to stop such things being interpreted as family violence. That is the 'reasonable person' test. Such a test demands that for an action to be deemed as violence it must be an action that requires a person 'reasonably to fear' for their personal safety and wellbeing. This is precisely the meaning and interpretation that this legislation strips out of the act. Is this bill more than it appears at face value? Is it another Trojan horse? I say it is most certainly a Trojan horse. On face value, the broadened definition of 'family violence' creates the illusion of providing greater protection against family violence. Yes, that is a lovely wooden horse but let's take a look inside. Maybe

not, because inside this Trojan is malicious code that gives one parent an arsenal of weapons to be misused in court to deprive the other parent of their right to be a parent.

Earlier in this debate we heard the Minister for the Status of Women tell this parliament that no-one uses claims of family violence in such a way. I have some very bad news for the minister: it actually does happen. It happens every day; and if she is not aware of it happening then she is gravely out of touch with reality. If the minister does not have any contact with her own constituents, perhaps she could spend a few minutes at her laptop doing some research. Here is the sort of thing that you can find in two minutes: the newspaper headline 'Ugly feud fought on Facebook'. The article tells about a Family Court hearing late last year. At the end it says:

She had already strung the case out by falsely claiming her ex-husband had been sexually assaulting their children after one judgment went against her. Then she falsely claimed the father's new wife had been assaulting them. 'The mother has over the years attempted to manipulate the court system,' Justice Barry said.

That is just one case that can be found with two minutes of Google research, and yet the minister came into this House and said that making false allegations of family violence and using family violence as a weapon in the courts is a myth. Do some homework, Minister. The fact that this minister has told a lie to this parliament—

The DEPUTY SPEAKER (Ms AE Burke): The member will withdraw.

Mr CHRISTENSEN: I will withdraw, but I will say that the minister has told an untruth to this parliament. It is clearly not true to say that it is a myth. It is clearly not true to say—

The DEPUTY SPEAKER: The member will return to the bill before him.

Mr CHRISTENSEN: I am, because the minister has told this House that it is a myth that family violence is misused by people in the Family Court. The fact is that it is not a myth and you can see that from a bit of research. Abuse of the system is why we have organisations like Lone Fathers, Dads on the Air, Fathers Online, Fathers 4 Equality, Men's Rights and so on. If we look closely at these groups, there is a common theme. It is a theme that helps explain why this malicious code is being pushed into the act. These are groups set up by fathers. We can talk all we want about custodial parents and non-custodial parents, but

the truth is that most custodial parents are mothers and most non-custodial parents are fathers.

There are no winners in family law. All parents in family law become losers one way or the other, but some who are bigger losers than others. The current act helped to bring some equality to family law. It created the two pillars, one of which recognised the benefits to the child of having a meaningful relationship with both parents. These amendments are a backward step. They will strip fathers of their right to be fathers. These amendments will allow abuse of the system that will create another generation of stolen children.

I do not know where the government obtains feedback on the practicalities of family law and family law disputes, but I get my feedback from constituents. I talk to real people who are affected by real situations. I have conversations with fathers who are getting the roughest end of the pineapple. They are grieving fathers who have lost children through the courts. They are devastated and frustrated. They are good men who love their children and want to maintain a relationship with their own flesh and blood—something that should be a basic right.

Some of these men are on the edge. They are driven insane by the lack of justice in the system. They are left in the wilderness, robbed of basic rights and family and, with no support from our legal system, these fathers are driven to despair, driven to the brink of insanity. And if the minister wants to continue her research, she might discover what happens when fathers are placed in a hopeless situation where justice is lost through abuse of the system—which she claims is a myth. When fathers are driven to insanity, they do insane things. I can, in no way, condone the actions of men who, in the face of losing everything, choose to take everything. They do take their own lives and, very sadly, sometimes in the insanity that they are engulfed in, they take the lives of their children. I note that this is not purely a male response, given that there are numerous examples, including some recent cases, of non-custodial mothers doing the same thing.

Family violence is a terrible thing, but so are the actions of fathers driven to the brink. These amendments will do nothing to stop family violence—we already have good measures in place—but they will drive more fathers to the brink. If these amendments drive fathers to the brink, we should be asking who is at the wheel. Is the Minister for the Status of Women at the wheel? Is the Labor-Greens government at the wheel?

I suspect that there is a strong feminist ideology driving these amendments. It is feminist ideology that has created this malicious code to rob men of their rights to be fathers. It is feminist ideology that has dressed up

this malicious code to rob children of their right to have a father in their lives. It is feminist ideology that has dressed up this malicious code to create the illusion of acting to stop family violence.

I note that included with these changes is one that repeals the 'friendly parent' provisions from the additional considerations for determining a parenting order. The friendly parent provision encourages amicable behaviour among parents. It fosters friendly relationships with all parties. Most importantly, the friendly parent provision assists a court to meet the first pillar of parenting provisions—the benefit to the child of having a meaningful relationship with both of its parents. This provision has helped more fathers maintain meaningful relationships with their children and, at the same time, it has discouraged parents from abusing the system.

But justice and maintenance of rights for fathers is an affront to this feminist ideology from this government. What a clever way to rob men and rob fathers of their rights! Surely no-one would vote against amendments aimed at protecting children and preventing family violence. But that is not what these amendments are really about. There is already protection in the current act. The fact is that these amendments actually trivialise what is a very serious matter—that being family violence. The broadened definition of 'family violence' waters down the meaning of violence and will, in effect, make family violence more acceptable—precisely the opposite of the purported aim of these amendments. These amendments should be seen for what they are. They are a Trojan horse, full of malicious code designed to deprive fathers of their rights. The best thing we can do to protect the safety of children and to prevent family violence is to leave this act as it is. (*Time expired*)