

Family Impact Commission Bill

Second Reading

Reverend the Hon. FRED NILE [4.57 p.m.]: I move:

That this bill be now read a second time.

We are now recommencing debate on this very important bill, the Family Impact Commission Bill. It has been before this House a number of times. I first gave notice of it on 23 May 1991, which is nearly 12 years ago. It was introduced into this Chamber on 26 October 1995 and then reintroduced on 11 April 2002. So it has had a long history. The bill is unique in that it was passed by the House at the second reading stage and referred to the Standing Committee on Law and Justice to report back to the House, which it did after an extensive inquiry. The committee canvassed evidence for and against the bill—most of the important evidence favoured the bill—and, perhaps differently from other committees, the committee reported the results to the House without making any recommendations one way or the other about the future of the bill. The committee decided that it would be best to refer the bill back to the House for the wisdom and judgment of the House. I accepted that decision as preferable to the committee rejecting the bill or presenting a negative report, which it did not.

This is a unique situation. I appreciate the opportunity that we are given as members of the House to introduce private members' bills and to seek, through presenting the arguments in favour of the bill, to win the support of the majority of honourable members. Bills cannot be passed unless they attract the support of the majority. Perhaps this bill should be the subject of a conscience vote, because it touches on issues of conscience in the same manner as euthanasia, abortion and the age of consent. I sense from the tenor of previous debates on this similar legislation that we are dealing with issues of conscience. This bill raises questions about members' values, what they regard as a family in our society and what they would like to see done to support the traditional family.

Pursuant to sessional orders business interrupted.

Debate resumed from 8 May.

Reverend the Hon. FRED NILE [4.02 p.m.]: On the last occasion I spoke on this important bill I said only a few words, and I regard this as my second reading speech. The bill is one of the most important bills to be introduced into this House. A great deal of work has been done over a long time to produce it. It is a most detailed and professional bill. It does not scrape over various aspects, but goes into detail. Any questions honourable members may have are answered in the bill. Often bills that are introduced into this House give an overall picture and the Government says that the detail will be provided in regulations. But in this case the detail is in the bill.

The object of the bill is to provide for the establishment of the Family Impact Commission, which will study and report on the moral, social and economic impact on New South Wales families of existing laws and proposed laws and government expenditure, for the purpose of ensuring that the family, consisting of those individuals related by blood, adoption or marriage, is the foundational social unit of the nation; the family is to be given the widest possible protection and assistance as the natural and fundamental unit of society, particularly when it is responsible for the care and education of dependent children.

In previous debates concern has been raised about the definition of "family". Some honourable members have assumed, wrongly, that a bill of this type would prevent the Government from assisting people in other relationships. The bill will ensure that the Government does not neglect the family, but nothing in the bill will stop the Government from providing financial support or relevant legislation for single mothers, divorced women, single-parent families, a male with children, a widow or widower, a war widow or homeless children. Obviously, governments must provide care and protection for all members of society. The bill will give priority to the family, which is the basic unit of society. If honourable members took time to think about that principle they would agree with it, but whether they agree with how I apply it is another matter.

It is often said by both sides of politics that the family is the basic unit and the building block of

society. Strong families mean a strong society. If we believe that, we should give priority to doing whatever we can to strengthen those families so that they can care for themselves and their children, and provide support for disadvantaged and dysfunctional families, and individuals. The bill further provides that the family has the prime responsibility for the welfare, education and property of its members; that the sanctity and the unique sphere of authority of the family be recognised and preserved; and that optimum conditions for maintaining the integrity of the family unit are to be preserved and promoted. No government would deliberately do anything to hurt the family, but decisions sometimes unintentionally disadvantage the traditional family.

Only last week I heard from a couple in their 60s who decided to marry after their former partners had died. However, they now find that their pension has been disadvantaged. Rather than encourage people to marry and establish a family unit, that would deter them from marrying. I do not believe that anyone decided to make it harder for people to get married and easier for them to live together in a de facto or unmarried relationship, but that is the effect of economic decisions. The bill provides for the preparation of family impact studies and assessment of all bills introduced into the Parliament, and for all expenditure or programs of expenditure of public money; the preparation of those studies and assessments for other matters considered appropriate by the commission; the principle to be taken into account when preparing such studies and assessments; the constitution of an advisory committee; the conferring of investigative powers on the commission; and the publication and review of studies and assessments.

Honourable members know that the bill was previously passed in this House by a vote of 22 to 17 and was then referred to the Standing Committee on Law and Justice, which reported back to the House following an extensive inquiry. The 1996 inquiry considered not only the bill but also the proposed amendments. The committee received many submissions, many of which were for the bill and opposed to some of the foreshadowed amendments. I was very pleased that so many people took an interest in the bill. I was also pleased that a number of submissions supported it. I know that questions have been raised about the definition in the legislation, but it is supported in many quarters. For example, the bill seeks to enshrine in legislation article 16 (3) of the Universal Declaration of Human Rights—a declaration that is supported 100 per cent by all honourable members. The article states:

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

All parliamentarians say that they support that principle, but through this bill I am trying to find a way to incorporate those very important principles into legislation. Section 43 of the Family Law Act—legislation that was introduced by the late Senator Lionel Murphy, as he was at that time—was amended in view of widespread concern. Reluctantly, these words were included in the Act:

The Family Court shall, in the exercise of its jurisdiction under this Act, and any other court exercising jurisdiction under this Act shall, in the exercise of that jurisdiction, have regard to:

- (a) the need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life;
- (b) the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children;
- (c) the need to protect the rights of children and to promote their welfare ...
- (d) the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to their children.

Paragraph (a) relates to marriage, which is of paramount importance, and subsection (b) refers to the "widest possible protection and assistance to the family as the natural and fundamental group unit of society". Those subsections show that universal principles are recognised both in international conventions and in Federal legislation. This bill, which has been introduced by the Christian Democratic Party, is to my knowledge the first ever attempt to enshrine those principles in this State's statutes.

I have listened to many debates in this Chamber about environmental impact statements. I do not have anything against environmental impact statements and I certainly support preserving the environment, but there seems to be a gap. This State's legislative framework does not adopt the same approach to providing a legislative framework requiring impact statements for families. While listening to debates on the environment, the idea of family impact statements germinated in my mind and that led me to the introduction of this bill. A number of organisations that made submissions to the Legislative Council Standing Committee on Law and Justice have responded positively to this bill. The former Catholic Archbishop of Sydney, Archbishop Clancy, stated:

If this legislation is to be regarded as a worthwhile part of the legislative activity of the Parliament in promoting the *peace, welfare and good government* of New South Wales it needs to be demonstrated that an assessment of the impact on *families* of legislation and government policy merits specific attention.

The support for this proposition, and hence for this proposed legislation, lies in an acceptance of the special place of the family in society.

That statement alludes to principles in some of the documents to which I have referred, namely, the Universal Declaration of Human Rights. Other organisations that perceived merit in this bill are the Women's Action Alliance, the Festival of Light Community Standards Organisation, with which I am involved, the Presbyterian Women's Association of Australia in New South Wales, the Presbyterian Church of Australia, General Assembly of New South Wales and its church and nation committee, and particularly the Salvation Army, Australian Eastern Territory. I know that all honourable members respect the Salvation Army and I note that its Red Shield appeal is currently being conducted. I am confident that the appeal will be supported strongly by the Australian people, as usual. The Salvation Army's submission on the objects and principles of this bill states:

We support this strongly as it stands.

We refute the proposed amendments to omit lines 12-14 by reference to the Family Law Act.

The Salvation Army also supports the definition of the family provided in the bill. Those comments are important community feedback, which is not often part of legislation. The community does not usually have an opportunity to be involved in the preparation of bills that are introduced into the House. In contrast to that, this bill almost makes it obligatory for the community to be involved. Part 1 of the bill provides definitions that are fundamental to its purpose. The bill states:

family means an organic unit composed essentially of a man and a woman related by marriage and the children of either or both of them by blood or adoption...

marriage means the union of a man and a woman to the exclusion of all others voluntarily entered into for life.

Clause 5 provides for family impact studies and assessments to be made by the Family Impact Commission on the effect of proposed legislation and government expenditure. It also provides people with an opportunity to apply to the commission. Schedule 1 sets out the Application for Family Impact Study/Assessment. I will be pleased to consider amendments to machinery provisions of the bill, including schedule 1. The idea is that people will apply to the commission and request a family impact study or assessment to be undertaken. The application sets out a number of matters that will enable the commission to determine whether it is worthwhile undertaking expenditure to make an assessment. People who make an application will be required to furnish information in response to these questions, among others:

5. How many families would be affected by the proposed legislation or expenditure?
6. Which type of families would be affected by the proposed legislation or expenditure? (eg families from a particular ethnic background or in a certain geographical area)...
8. Will the proposed legislation or expenditure reinforce the stability of the home and particularly the

marriage or commitment that holds the home together?

9. Will the proposed legislation strengthen or erode the authority of the home and specifically the rights of the parents in relation to the education, nurture and supervision of their children?

When honourable members study the bill they will see that there are 21 very comprehensive questions in the application. The bill also requires the commission to provide a copy of the study and assessments to the applicants and interested parties. In other words, the commission's procedure is open to public involvement and oversight. The commission will be required to make copies of each study and assessment available to the public for inspection, free of charge or for purchase. The commission will also be required to give a copy of each study and assessment to each member of the advisory committee.

The assessment of a bill which will be read in each House of Parliament during the second reading stage, and a copy of the assessment is to form part of the official records of the matter concerned. The bill also provides for the Minister to appoint a public authority or a public official as the authority with responsibility for one or more matters requiring study and assessment. The procedure that the commission will adopt in conducting its work is outlined in part 6, which relates to information gathering, et cetera. Clause 21 allows the commission to invite public submissions on any matter that is the subject of a study. Clause 22 enables the commission to refer a matter that is the subject of a study to a public authority or public official for investigation or other specified action.

Clause 24 enables the commission to conduct investigations on its own initiative or for the purposes of preparing a study or assessment. I will not go through all stages, but I indicate that a great deal of thought has gone into preparing this bill. We believe we have covered all the important matters. The bill provides for the establishment of an advisory committee to advise the commission. We have suggested the membership and procedure for that advisory committee, because sometimes that detail is not provided in a bill and people may become concerned about that in due course. Everything has been included up front. The committee is to consist of 15 members, 1 member to be the Director-General of the Premier's Department, or a representative; 1 member is to be the Director-General of the Attorney General's Department, or a representative; and 1 member is to be the Director-General of the Department of Health, or a representative.

The remaining 12 members are to be appointed by the Governor, each person being nominated by, or by a body that the Minister is satisfied represents, one of the following organisations, churches or faiths: the Institute of Family Studies, the Salvation Army, the Anglican Church, the Catholic Church, the Uniting Church, the Jewish faith, the Greek Orthodox Church, the Presbyterian Church, the Assembly of God Church, the Australian Federation of Festival of Light Community Standards Organisation, the Australian Family Association and the New South Wales Council of Churches. We know that those organisations and churches have a deep concern for the welfare of the family. Other organisations may have special interests in other areas such as conservation or the environment, and other bills establish their representation on other advisory committees.

I have tried to select organisations that would make a contribution to the conduct of the Family Impact Commission. Some members are concerned about certain aspects of the bill, but I hope that it will be passed in due course. In my earlier contribution I spoke about having a conscience vote on this bill because I had detected that there were strong views one way and the other. A conscience vote and differing views will be reflected in later debates concerning the age of consent, euthanasia and abortion. It may be possible for the major parties and crossbench members, when considering the bill, to have a conscience vote to allow honourable members to express themselves freely. I am sure the Government would agree that the Family Impact Commission is an excellent idea, but it will cost money.

The Government will need to weigh up its priorities and resources and decide whether it should allocate funds for the Family Impact Commission. The financial benefits that would flow from the commission would far outweigh its costs. I hope that in considering the bill the Labor Government will not just consider the dollars and cents, and say that the commission is a great idea, but decide not to burden the budget with it and oppose the bill. I would be prepared to consider the insertion of a sunset clause in the bill to limit its operation to two or three years. If the commission proved to be of no practical value it could lapse, unless a new bill were introduced to allow it to continue its work. We

could also consider holding a trial of the Family Impact Commission, as is being done with the trial of the medical use of marijuana and the Kings Cross injecting room.

Mr Ian Cohen: You agree with that, do you?

Reverend the Hon. FRED NILE: Many members push for trials, so let us have a trial of the Family Impact Commission. If it proves to be beneficial it can continue, or we could have a sunset clause to bring the experiment to an end. I would not push for the commission to continue if it did not achieve its aims. A commissioner and assistant commissioner would have to be appointed, as they are in other bodies set up by this Parliament. They would be nominated by the Government, through the Premier's recommendation to the Governor, and the Government would have control over those appointments. The bill states:

The Governor may, from time to time, appoint a person to act in the office of Commissioner or Assistant Commissioner during the illness or absence of the Commissioner or Assistant Commissioner, and the person, while so acting, has all the functions of the Commissioner or Assistant Commissioner and is taken to be the Commissioner or Assistant Commissioner.

That traditional wording was provided to me by Parliamentary Counsel to cover those appointments. There is no hidden agenda, I have no nomination for the commissioner, but I assume that if the bill is passed the Government will conduct a thorough investigation. The Government may adopt the usual practice and advertise those positions, as it does for other organisations. I am sure suitable persons could be appointed. I urge honourable members to not make an off-the-cuff decision. I ask them to study the bill, discuss it within their party and specialised party committees, with members of the community, and with community church representatives and get some feedback before they make a firm decision. I ask honourable members to give the bill fair consideration.