



Speech by

Hon. ANNA BLIGH

MEMBER FOR SOUTH BRISBANE

Hansard 27 August 1998

**ADOPTION OF CHILDREN (HAGUE CONVENTION OF INTERCOUNTRY ADOPTION) AMENDMENT
BILL**

Hon. A. M. BLIGH (South Brisbane—ALP) (Minister for Families, Youth and Community Care and Minister for Disability Services) (11.31 a.m.): I move—

"That the Bill be now read a second time."

The purpose of this Bill is to introduce the Hague Convention on Protection and Cooperation in Respect of Intercountry Adoption into Queensland's adoption law. This Bill supports current efforts within Queensland, along with every other State and Territory of Australia, in securing the safety and wellbeing of children adopted from one country to another. At the outset, I should acknowledge that the introduction of this Bill represents one of the final steps in a long process which commenced more than 10 years ago—a process involving several Queensland Ministers, together with a range of Commonwealth and Queensland Governments. In particular, former Ministers such as Anne Warner, Margaret Woodgate, Kev Lingard, and Naomi Wilson should each be recognised for their particular role in reaching this point.

This convention was built upon the recognition that despite significant cooperation between the countries of the world, there was substantial room for improvement in the processes surrounding the intercountry adoption of children. Honourable members will all be aware of anecdotal stories concerning the abduction, sale and trafficking of children from one country to another, as well as macabre stories concerning a hidden and sometimes not so hidden trade in children from one country to another. This convention will implement minimum standards to ensure that these types of practices will not occur.

The event usually regarded as marking the beginning of intercountry adoption programs within Australia was an airlift of refugee children from Vietnam in 1975. It is probably fair to say that, despite the best of intentions, the rush to place these children with Australian families meant that adequate standards of assessment were not followed in the zeal to meet the needs of this group of highly disadvantaged children. With the benefit of hindsight, it is now clear that many would have been better helped if they had remained within their own country. Substantial evidence also emerged internationally of unacceptable practices surrounding the intercountry adoption of children. These practices, ranging from the inappropriate placement of children to their outright abduction and sale, occurred in the absence of proper international protocols and guidelines about the issue.

Between 1977 and 1981 the then Council of Australian Social Welfare Ministers convened a committee which carried out substantial work in monitoring arrangements and developing standards concerning intercountry adoptions by Australian jurisdictions. While this work went some way towards regulating intercountry adoptions, by October 1988 strong support had emerged for the development of a convention on intercountry adoption. It was considered by the international community that the subject matter was of such importance as to warrant the development of a binding international convention. A special commission was established to work on this project from 1990 to 1993. The convention was finalised on 29 May 1993, and entered into force on 1 May 1995 after being ratified by three countries. At least 32 countries are currently signatories to the convention and it has entered into force in more than 20 countries.

Discussions have occurred over many years about the ratification of the convention by Australia. These negotiations, involving each State and Territory, progressed to the point where, on 30 July 1997, a meeting of all Australian Community Services Ministers unanimously recommended that Australia ratify the convention. This outcome was a historic one which reflects goodwill and cooperation between State, Territory and Commonwealth Governments across the entire political spectrum. Obviously, ratification of the Hague Convention is a responsibility of the Commonwealth under its external affairs power. The Commonwealth Government has indicated that Australia will ratify the convention on 1 December 1998. Other countries who have ratified the convention include Canada, Denmark, Sweden, Norway, and Spain.

The convention establishes safeguards to ensure that intercountry adoption takes place in the best interests of the child. It also establishes a system and reciprocal recognition amongst convention countries to ensure that these provisions actually result in good standards of practice—preventing abuses such as the abduction, sale of, or trafficking in children. At the very heart of the convention is the principle that countries should take appropriate measures to enable a child to remain in his/her family of origin, and that a child should, as a matter of preference, remain in their home country if possible. The convention sets minimum standards for participating countries to prevent the exploitation, buying and selling of children. It is worth noting that Australian and Queensland practice currently exceeds these minimum standards. Convention countries must—

- communicate with each other about all aspects of intercountry adoption;
- only permit intercountry adoptions where both countries agree that the prospective adoptive parents are suitable;
- only support adoption overseas where such placement is in the best interests of the child;
- ensure that there is no improper financial gain from intercountry adoptions; and
- recognise adoption orders made in other convention countries unless to do so would be manifestly contrary to public policy and against the best interests of the child.

The convention, like Queensland adoption law, also provides protection against birth parents being coerced or induced into the giving of their consent to a child's adoption and ensures that the wishes of the child are given due consideration.

The Commonwealth Government has prepared regulations capable of implementing the convention throughout Australia. Each State and Territory has the option of implementing the convention either by relying upon these Commonwealth regulations, or by enacting its own legislation which is substantially similar in effect. On 19 January 1998, former Minister Lingard informed the Commonwealth of Queensland's intention to pursue the latter course of action—the enactment of its own legislation. Western Australia, Victoria and New South Wales have also chosen this course of action. This decision ensures that intercountry adoptions within Queensland can continue to be made by the Director-General of the Department of Families, Youth and Community Care, rather than the more expensive and complicated practice of having these orders made by a court, as would be the case under the Commonwealth regulations. It is worth noting that Queensland is the only State in which adoption orders are made administratively. In each other State and Territory, the relevant department assesses the prospective adopters, makes a recommendation to the court, which then makes the final decision and order.

There has been extensive consultation regarding the implementation of this convention within Australia. A copy of the convention was tabled in the Commonwealth Parliament and scrutinised by the Parliamentary Joint Standing Committee on Treaties. A national interest analysis was tabled with the convention, setting out the views of State and Territory Governments, non-Government organisations and other interest groups. In Queensland, the Department of Families, Youth and Community Care placed advertisements in newspapers during November 1997 to inform the public of the matter and invite submissions upon it, as well as inviting comment from a range of intercountry adoption interest groups. Responses were forwarded to the Commonwealth for consideration by the joint standing committee. The results of this consultation were highly supportive.

This Bill gives effect to the intention of this Government, previous Queensland Governments, and indeed Governments across Australia that processes surrounding intercountry adoptions should reflect internationally accepted standards to ensure against practices such as the sale, abduction and trafficking of children. The Hague Convention on Protection and Cooperation in Respect of Intercountry Adoption will be implemented in every Australian jurisdiction, and throughout the world, to achieve this goal. This Bill strengthens Queensland's contribution to the global fight against these abhorrent practices. At the same time, the enactment by Queensland of its own amending legislation will ensure that Queensland can implement the Hague Convention without adding to the cost or complexity of the process of intercountry adoption.

This Bill marks a closing point in a process that commenced more than 10 years ago, involving not only Governments, but Ministers, bureaucrats, and the community alike. That these groups could work together, persist in the development and implementation of this convention, and reach a unanimous outcome is a reflection of the level of commitment to the safety and welfare of children within Australia.

I am confident that a similar commitment within this Parliament to the safety and welfare of children will ensure the smooth passage of this Bill, and I commend it to the House.
