



Speech by

Hon. ANNA BLIGH

MEMBER FOR SOUTH BRISBANE

Hansard 12 November 1999

DOMESTIC VIOLENCE (FAMILY PROTECTION) AMENDMENT BILL

Hon. A. M. BLIGH (South Brisbane—ALP) (Minister for Families, Youth and Community Care and Minister for Disability Services) (10.35 a.m.), in reply: I rise to sum up and to answer some of the questions that honourable members have put to me during the debate. I would like to thank members on both sides of the Chamber for their support for the legislation, which seeks to significantly improve the efficiency of the Domestic Violence Act and its administration and its ability to protect people from what I think is understood in a bipartisan sense to be a scourge in our community. I think we honestly share across the Chamber a desire to see domestic violence minimised to the extent that that is possible by the law.

The member for Indooroopilly took great offence at my accusation that, under the previous administration, for some time the legislation had been collecting dust. As much as I might enjoy going through with him some of the failings of the previous administration in relation to this legislation, I do not think now is the appropriate time to do it. I think that the ups and downs of this Bill are well understood by people who work in the sector and know how important it is. However, I have to say that it is very touching to see the member for Indooroopilly defending the member for Beaudesert. I was surprised to find him appointing himself as president of the Kevin Lingard fan club. Good luck to him, but I suspect that he will find it a very lonely place, particularly after this morning's effort.

I was also very disturbed to hear the member for Indooroopilly make the accusation that the majority of domestic homicides had happened under a Labor Government. I regard that as a disgraceful and despicable contribution to a very serious debate and I think that that kind of attempt to party politicise some very tragic homicides in the domestic circumstances of our citizens was unwarranted and, frankly, beneath the dignity of the member for Indooroopilly.

The member asked about a number of things. Firstly, he sought more information about the proposed removal of the word "knowingly" in relation to the way in which an order may be breached. In that regard, I refer him to the case of *Abbott v. Brown* in the District Court. However, I also point out to him that the model laws as proposed by the Commonwealth propose that laws do not refer in any way to the word "knowingly". In fact, because of similar difficulties, that is now the case in the majority of States.

In relation to the question of the effective individual, it is precisely because of the varying nature of workplaces where these sorts of issues might arise that the Bill is crafted sufficiently broadly to allow the court to order that this sensitive information is provided to the appropriate person in the workplace of any particular aggrieved spouse. Both the member for Indooroopilly and the member for Caboolture expressed some concerns about the restrictions on weapons access and particularly in relation to the way that may affect the employment of a respondent spouse who is subject to an order. In the first instance, the member for Indooroopilly asserted that he had received many, many complaints about this. I have to say that that has not been my experience as Minister and I cannot recall that the member himself has ever made representations to me on the matter. However, I would encourage him to do so if he is aware of these sorts of complaints, because it is certainly something that I would take on board in crafting further legislation.

This is not to say that I do not recognise the potential this has to affect the employment of people and that there may be unintended policy effects from such moves. But I would draw the attention of both the member for Indooroopilly and the member for Caboolture to the fact that the Weapons Act amendments made in 1996 by the coalition Government, supported by the Labor Opposition at the time, both supersede the domestic violence legislation and further restrict access to weapons where a domestic violence order exists. I would have thought that those reforms brought forward by the Prime Minister enjoyed the support of the honourable member for Indooroopilly and indeed the majority of the House.

In relation to the ouster orders, the member raised the question of how issues related to property settlement might be resolved where the terms of an order prohibited one spouse from entering a property that they might be seeking to settle. I think the member answered it himself. The answer is that in those circumstances, if a relationship has been broken down to that degree where someone has been ordered out of the house, we would have to expect that it would be resolved through lawyers, as are many Family Court matters, unfortunately. The Family Law Act provides for the settlement of property disputes.

The member raised the question of time limits on temporary orders. I refer the member to sections 57(1), (2) and (3) of the current Act, which provide that the order must be returned to the court within 30 days and, where the court is not sitting, as soon as practicable after that. There is a time limit on how long an order can be temporary. In practice I understand that in most courts it would not be that long.

The member referred at some length to the model laws and the legislation put forward by the Commonwealth. The discussion paper in relation to the model laws was released in April after the consultation had been finalised about the amendments that are currently before the House. But I am happy to report that in most instances these amendments do reflect the proposals in the model laws. There are a couple of exceptions, which I will outline. Firstly, the Queensland laws before the House propose that employers be notified where there is a weapons matter. Secondly, the Queensland laws propose a prohibition on attempts to locate and identify a refuge. Neither of those are in the model laws at this stage. In addition, the model laws propose a significantly increased coverage of protection under the Act to a wider range of people and the model laws propose that the courts that hear matters around domestic violence should be open. It has always been the practice in Queensland that these matters are dealt with in closed court. I do not propose at this stage that we would be moving away from that.

The question of coverage will be the subject of an amendment that I will be bringing in and which I think has been circulated. The model laws propose an extension of coverage, firstly, to other kinds of spouses, particularly same sex spouses, and other forms of domestic relationships, such as people who are in relationships of dependence—for example, a frail older person being looked after by their adult son or daughter. I propose—and an amendment is being circulated now—to incorporate the model laws insofar as they go to the coverage of same sex spouses. The question of coverage beyond that to other types of domestic relationship will be the subject of broad consultation based on a discussion paper that has been drafted by my department.

The member for Caloundra was concerned about who will determine whether or not an effective person has distributed information more widely than is necessary. If we look at the clause, we see that it provides some guidance to the court in making that determination. The only people who can be given the information are those for whom it is necessary to achieve the effect, and that is the restriction of access to the weapon. I accept the point of the honourable member for Caloundra that this is not an easy area, but if she looks at the clause she will see that it is the courts that will determine whether or not that has been exceeded.

The current situation relies totally on the honesty of the respondent spouse. I think we would both accept that there would be many circumstances where relying on that would be extremely foolhardy. I accept the point of the honourable member for Caloundra about the need for education in this regard and I recognise the work that the Federal Government has done, particularly in the area of work with children, and the work that she, as Minister for Women's Affairs, did with the Commonwealth in its Pathways project. I am happy to inform her that it is due to be released very soon and we will be notifying her of that. But I think she would also agree that this legislation is not the place for us to be legislating about education. I am also happy to inform her that the Education Department has been reinstated on the Queensland Domestic Violence Council, because I share her concerns about the importance of education in breaking the cycle.

Both the member for Caloundra and the member for Gladstone raised concerns about the capacity of the police to hold respondent spouses for four hours. The current legislation provides that police can hold a respondent spouse for up to four hours unless something else happens first. The most common example is if the order is made before the four hours expires. In many cases, the police

can therefore hold the respondent spouse for only 20 minutes. As soon as the order is made, under the current legislation the police have to release the respondent. The police certainly made it clear to us when preparing these legislative amendments that that was not long enough, that it did not give them the flexibility that they needed. I think it is fair to say that the police are of two minds. They are mindful of not wanting to have extended powers to hold people without a charge for unreasonably extended periods, but they also want a workable amount of time whereby they can ensure the safety of a person who is the victim of violence.

The halfway point that we have reached on this is that the Bill before the Parliament will ensure that police are able to always use the total four hours, whether an order has been made or not. We are going to monitor the implementation of that. Many police would never have actually held anybody for four hours; they have never had that capacity, because an order has usually been made significantly before that. This is a halfway step to giving police more powers to hold someone. There are many circumstances in which that is important. Obviously, where the person is significantly affected by alcohol, the capacity of the police to hold the person until they at least get some way towards sobering up can make a big difference. Where the police are operating in a circumstance compounded by remoteness, certainly an appropriate amount of time is needed for a victim to leave town, if that is what is required. This is something that we will be monitoring. I have spoken at some length to the Police Minister about this. We will be consulting with police as this is put in place and we are certainly not averse to the proposition that it might need to be extended over time.

The member for Caboolture raised some concerns about the capacity of a respondent spouse to go back to his home and retrieve tools of employment and so on. This is addressed in the proposed amendments and I refer him in that regard to clause 25A of the Bill before the House.

The four hours question was the only significant question raised by the honourable member for Gladstone. I think what I have said basically addresses the concerns and requests for clarification that members had. As I said, this legislation is long overdue. I am very pleased to see that it has the support of the House.

In conclusion, I acknowledge and thank a number of people whose efforts have seen this Bill come to fruition. I start by thanking and recognising the commitment and hard work of all the staff of the Domestic Violence Policy Unit of my department, particularly its manager, Heather Nancarrow. As the member for Archerfield outlined last night, she has a very long history of commitment in this area. She has personally worked on this piece of legislation since 1995 and she informs me that she has seen out eight parliamentary drafters in the process.

I put on record my thanks to my former deputy director-general, Margaret Allison, Ms Glenda Alexander and Mr Adrian Lovney, all of whom have been instrumental to the production of the Bill before the House. I recognise the efforts of all members of the Domestic Violence Council and successive chairs of those councils, especially Ms Betty Taylor and Ms Leanne Spelleken.

I thank the many community sector workers and community representatives and members who have participated so fully in the extensive consultation processes involved in the provisions of this Bill. I recognise the staff of my office for their hard work, in particular Jackie Trad. I conclude by paying tribute to the many people whose lives have been touched and damaged by domestic violence and who have had the strength and courage to use the provisions of this Act to put violence behind them and begin to rebuild their lives.
