Speech by

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MEMBER FOR INDOOROOPILLY

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

Mr BEANLAND (Indooroopilly—LP) (3.30 p.m.): This Bill is supported by the National/Liberal coalition. The Bill is a culmination of well over a decade of work by a number of former Ministers, including in particular Naomi Wilson and Kevin Lingard and also Ministers Woodgate and Warner. During his ministerial period of some two years, former Minister Lingard in particular had a very important role to play in ensuring that this legislation comes before the House today.

The Bill deals with an area of adoption that has received a great deal of media attention and public interest over the years, particularly at times of great crisis in foreign locations. I think we all remember the situation in Romania, which is just one such location. It is about putting in place an orderly process to ensure as far as possible the protection, safety and appropriate conditions for children being adopted from various countries—not only the process in the country in which they are being adopted but also the process in their own country. Further, it also puts in place appropriate requirements for parents adopting children.

In the past a range of concerns have been raised about the adoption of children from overseas which I trust will now be resolved by this legislation. Not only have questions been raised about children being adopted in this State from overseas but, more significantly, from one country to another. Questions have been asked about various types of trade in children. I am sure that we have all seen comments in the media and interviews from around the globe containing various allegations in this regard. I am sure that members will recall questions being asked internationally about the adoption process in Romania some years ago.

The Hague Convention on which the legislation is based has some 48 sections which are termed "articles". While the Commonwealth Government, on behalf of the nation of Australia, has put in place the legislation, it is also a matter for the State to put in place its legislation on which this is based. The convention on which this is based came into force on 1 May 1995 after being finalised on 29 May 1993. It is significant to note that Brazil, Costa Rica, Mexico and Romania signed the convention on 29 May 1993, thereby signifying their early intent to proceed with efforts to obtain the necessary authority from their Government or Parliament to ratify the convention.

By the end of May 1994, 15 countries, including the United States, had signed the convention. By April 1995 some 20 countries had signed. Towards the end of last year that figure had increased significantly to well over 22 countries, and no doubt it is well above that today. Mexico, Romania and Sri Lanka ratified the convention—a requisite number of three countries—as of 1 May 1995, enabling it to come into force on that date. There was a requirement for some three countries to ratify it in order for that to occur. As I say, the number of countries that have signed has now increased to more than 20, and the number is still increasing. That is heartening to see. It is good to see that some of those countries that have received bad publicity in the past in relation to their adoption processes have now signed this convention.

Perhaps it is appropriate that I go back a little and point out that the Hague Conference on Private International Law has existed since 1893 and has operated in its current form since 1951. The United States, with Congressional authority, has been a member State since 1964. The country has become a party to four much-used conventions produced by the organisation dealing with the service

of process abroad, the taking of evidence abroad, the simplified certification of documents intended for use aboard and the return of children wrongfully removed or retained abroad, usually in custody-related disputes. The Hague Conference has over 40 member States, including most European countries, Israel, Egypt, Australia, China, Japan and countries of North and South America.

To ensure that intercountry adoption would be relevant and broadly acceptable, some 30 non-member States, firstly, from Latin America and South-East Asia but also from Eastern Europe and Africa, joined the member countries. It is important to note that these non-member States represented the major countries that make children available for adoption abroad. Furthermore, 18 international organisations, some of which focused particularly on child welfare and protection, including adoption, also participated.

The significance of intercountry adoptions can be seen when it is appreciated that in 1994 over 8,000 children from abroad were adopted in the United States out of a world total of 15,000 to 20,000, which is a very large number indeed. I think that highlights the significance of this piece of legislation and the fact that we are not just referring to a handful of children. Although approximately 8,000 of those children were adopted by people in the United States, one can also see that many other countries, including this country, were also involved in the adoption of children from abroad. Of course, there were also a number of intercountry adoptions through this State.

It is interesting that only a few months ago I was contacted by people who were endeavouring to adopt a child. They were concerned because the South Korean Government has apparently cut back on the number of children available for adoption. Of course, that is a matter for South Korea, but it highlights some of the problems that can arise. Of course, that created enormous concern for the would-be parents. They were concerned that they had gone through a process and they had great expectations—one could imagine the upset and the hurt that they felt because they had gone so far, had built up their hopes, were looking forward to adopting this child and suddenly they found that the South Korean Government had cut back on the number of children available for adoption.

The preamble to the convention highlights the role of the family, an important element in this convention. Many members in this place talk about the role and importance of the family. I know we all appreciate that. The document states—

> "Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment"—

I emphasise family environment—

> "in an atmosphere of happiness, love and understanding,
>
> ...
>
> Recognising that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,
>
> Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children ..."

As I say, the preamble emphasises the role of the family. I think we should take note of the final words in the document—

> "Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children ..."

I am sure it horrifies all members to think that the sale and traffic of children goes on today, but unfortunately it does. We hope that countries that participate in such practices will become signatories to this convention. Unfortunately, many of those countries choose not to do so because the trade in children is big business. We urge all of those countries to become involved and we urge people in those countries to ensure that their country becomes part of this convention and discontinues that abhorrent activity.

Article 1 of the convention goes on to indicate its scope. The objects of the present convention are: to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law; to establish a system of cooperation amongst contracting states to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children; and to secure the recognition in contracting states of adoptions made in accordance with the convention.

Article 4 sets out that the adoption within the scope of the convention shall take place only if the competent authorities of the state of origin have established that the child is adoptable, that the intercountry adoption is in the child's best interests, that the consent of the persons, institutions or authorities whose consent is necessary for adoption has been given freely after being informed of the

effects of their consent, that the consent of the mother, where required, has been given only after the birth of the child, and that there have been no inducements given. I think that is particularly important. One can appreciate that some of the countries that ought to be signatories to this particular arrangement are not. Countries that want to trade in children would no doubt run a mile from those types of requirements.

Article 5 sets out the requirements of the competent authorities of the receiving state. Article 6 allows for the Commonwealth to be the central authority. It also allows for more than one central authority in a Federal system of Government, such as in the States within the Federation of this great nation of ours. That ensures that the State of Queensland is also a central authority.

Article 22 allows for private bodies to undertake adoptions, provided they meet the standards set for central authorities in relation to things such as integrity, professional competence, experience and accountability and provided they are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption. Thus, private adoption agencies are permitted under the convention, provided they meet the central authority's standards.

This legislation before the Parliament does not include private adoption bodies. The legislation before the House allows for the chief executive officer of the relevant department, namely the Department of Families, Youth and Community Care, to continue to make decisions on adoptions—in this case intercountry adoptions. That is different from what occurs in other jurisdictions, where orders are made by the courts. Matters are therefore court settled. I understand that Queensland has a unique system in this regard and we will continue with that particular system, a system which apparently works fairly well.

There are not too many complaints about the system, although there has been some criticism by the non-profit, non-Government organisations to the effect that this convention, once it is ratified, will bring intercountry adoptions to a halt. When they make those statements, they never go on to explain why. It is a good throwaway line. Perhaps some of the people involved in those activities do not always necessarily have the best interests of the child at heart. I would hate to think that anyone involved in the business of adoptions in this country did not have the best interests of the child at heart, and I am sure they do.

We know that many countries that will not be signatories to this agreement certainly would be well and truly involved in areas they ought not to be concerning the trade of children and certainly would not want to abide by this convention. I think it is up to all countries and all central authorities, including this State as a central authority, to wherever possible encourage those countries that are not participants to become participants so that we cut down and hopefully abolish the trade in children.

The area of adoptions is most sensitive. Provided this sensitivity is appreciated and acknowledged by the central authorities of the relevant countries, there is no reason intercountry adoptions should not continue, although on a much more accountable and reasoned basis than in the past. I am sure this country, and particularly this State, has always endeavoured to do that. Bureaucratic processes should not overwhelm the human desire to bring together a child and a couple wanting to adopt, even though we are dealing with nations in far-off locations.

I understand that there is general support in the community for this legislation, as seen in the public submissions from around Queensland received during 1997. In January 1998, then Minister Lingard indicated that Queensland would pass its own legislation to give effect to the convention in this State rather than allow Commonwealth regulations to apply to Queensland, as Queensland has its own adoption legislation. I am pleased that the current Government has continued that with this piece of legislation. I understand that, had this legislation been passed by 1 December last year, Queensland would have been ready for the ratification of the convention by the Commonwealth Government, which occurred on 1 December 1998.

I place on record my thanks to the Minister and her staff for the briefing I received on this issue. I look forward to the continuing goodwill that will make this legislation a success and I look forward to this State and the Commonwealth playing a significant role in ensuring that other countries become involved in legislation of this type, which must be one of the most worthwhile pieces of legislation brought before this Parliament.