



Speech by

JACK PAFF

MEMBER FOR IPSWICH WEST

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AUDIO VISUAL AND AUDIO LINKS AMENDMENT BILL

Mr PAFF (Ipswich West—ONP) (3.36 p.m.): I wish to speak in support of this Bill, which provides for Queensland's participation in a uniform national scheme for the taking or receiving of evidence and submissions in the courts of participating States by audiovisual or audio links. I was interested to hear the member for Lytton talk about our qualifications and where we might have come from. I can recall many years ago in the country when a depositions clerk would be rattling away on a typewriter typing out all of the evidence being given before a court. We have actually come a long way from those days of the old typewriter.

I had some initial concerns with provisions of the legislation, including proposed new section 39I(1), which restricts the power of a recognised court to punish for contempt of court or to enforce or execute its judgments or process within Queensland. I accept the explanation of the Minister's senior policy adviser that to allow a recognised court to have these powers would effectively allow another State's laws to have effect in Queensland. I further accept that proposed new section 39O adequately addresses this issue.

My next concern was that proposed new section 39R(1) allowed for a Queensland court to direct that a person give evidence via audiovisual or audio link on the application of a party to the proceeding. This removes the requirement for agreement by all parties to such a request. I do not think that the effect of an audiovisual or audio link in comparison to an in court appearance can be underestimated. In Queensland, under section 21A of the Evidence Act of 1997, special provisions are already allowable for the giving of evidence of special witnesses. Although not specified, the use of audiovisual links is allowable under this section and is used most frequently in relation to child witnesses. The implications of the jury seeing one of the parties in person or on screen can be significant.

At an Australian Institute of Criminology conference about children and crime held recently in Brisbane, the Honourable Justice Linda Dessau of the Family Court of Australia mentioned her support for the use of closed-circuit TV. She said that, even though the overall demeanour of the person may be lost, the jury get to see a close-up of the child's face. My concern was that, unless the use of audiovisual and/or audio link were agreed to by both parties, one party could be advantaged over the other. I am assured by the Minister's senior policy adviser and the Scrutiny of Legislation Committee report that, in making such a direction, the court must do so in the interests of justice. Also, the court may vary or evoke such a direction on the application of a party to the proceeding. I am satisfied with this.

I have one unsatisfied concern relating to section 39Y(2) which allows the putting of a copy of a document to a person without proof that the transmitted copy is a true copy of the relevant original document. The advice of the Minister's department that after transmission the original document would be tendered as evidence to be retained by the court does not satisfy my concern regarding the integrity of the transmitted copy received at the external location. My concern lies with the possibility of tampering with the copy of the document at the external location—that is, between the time it is taken off the fax machine and the time the document is put to the person at the external location. I understand that such an incident is highly unlikely; nonetheless, I believe that this issue should be addressed in the interests of justice.

It is for this reason that I will be moving an amendment in Committee to delete section 39Y(2). This will delete the authority by which a copy of the original document put to a person at an external location is admissible as evidence without proof that the transmitted copy is a true copy of the relevant document. This section of the Bill needs to be revisited with a view to ensuring the integrity of documents used in external court locations. I thank the Minister for his detailed and timely response to my request for clarification and reiterate my support for the Bill. I do believe it will be of benefit to the legal system and to Queensland.
