Speech by

ANDREW McNAMARA

MEMBER FOR HERVEY BAY

Hansard 15 May 2002

CRIMINAL LAW AMENDMENT BILL

Mr McNAMARA (Hervey Bay—ALP) (5.40 p.m.): I rise to support the Criminal Law Amendment Bill 2002. As a former lawyer with a fair bit of experience in the criminal jurisdiction, I have had plenty of opportunity over the years to consider the competing and complicated issues which the Attorney has had to balance in drafting this bill. I congratulate the Attorney on the outcome which we have before us tonight. There are many conventions in the criminal legal system and some are part of our everyday language. The member for Kurwongbah just mentioned the presumption of innocence. Many of these have passed into everyday language and it is easy to reel them off—the right to a fair trial, the right that that trial be held with jury, the right that the jury be a jury of our peers, and justice having not only been done but seen to be done. There are many others and some of them are conflicting. It is a matter of balance.

This bill deals with issues from both ends of the bar table. In a practical sense, it contains wins and losses for both accused persons and for the prosecution in our system. Looking first at the bill from the point of view of the accused, I strongly support the restriction on jurors accessing untested and possibly wrong and dangerously prejudicial material from the Internet. Members will be aware of the existence of online criminal history sites such as crimenet.com.au which, for a small fee, provide a criminal history detail of serious offence convictions from all states and territories. It is not exhaustive and nor is it guaranteed to be correct. This service has already led to one criminal trial in Victoria being aborted just by its very existence. The Attorney is quite right to amend via this bill the Jury Act to prohibit jurors making inquiries about an accused in this way. Not only is there the very real threat of prejudice, but it means that we can avoid the very unfair position of some jurors being in possession of information—right or wrong—which the accused, other jurors and even the judge have not heard. That is a win for the accused and for fair trials in our information age.

Importantly, this bill also serves the vital purpose of encouraging jurors and witnesses to do their duty to the law and the community by increasing the protection which they are afforded at law. Other members of this place have already canvassed at some length the specifics of the legislation. Suffice it to say, I strongly support the restrictions on the disclosure of information about jurors. As someone who has combed through jury lists in my time trying to work out who is who in the zoo, this particular trait in our legal system needs to be restricted. Protecting the privacy of jurors is in the public interest. Jury duty is onerous enough and it is a very serious and important community service provided by thousands of Queenslanders every year. But their addresses do not need to be disclosed on the jury list. Similarly, and probably more importantly, the proposed amendment to the Criminal Code to create an offence of causing or threatening any injury or detriment to a judicial officer, juror, witness or their families is very welcome. All members will agree that reprisals against people who are only doing their duty to our legal system strike at the heart of our civil society and are abhorrent.

Finally, I note the proposed amendments to the Evidence Act allowing DNA evidence to be put in by way of certificate, and I support those amendments. The member for Southern Downs canvassed the competing issues involved in supplying evidence in that way. Of course, many of the points that he made are valid, but they are competing arguments. One of the great criticisms which is frequently levelled at our trial system in the criminal courts is the issue of delay and the issue of cost. Again, one of those maxims that floats around frequently is that justice delayed is justice denied. It is a matter of balance. While the issues that the member for Southern Downs raised are very important, these sorts

of provisions which allow for evidence to be put in by way of certificate significantly speed up the process.

There are significant costs involved in having to have officials and scientific officers present at court to swear in evidence. It is not unusual at all in our judicial system to have technical evidence in particular, which would otherwise require scientific officers who frequently have to travel from across Queensland to get to regional centres where trials are being held, put into evidence in this way. The bill provides for the DNA analyst to be called with leave of the court if the accused or the Crown have concerns about any matter stated in the certificate. I believe that this is a sufficient safeguard for a reform that will make trials speedier and cheaper, and they are both worthy aims in themselves and worthy of being counted in the balancing of this bill. On balance, this is a very good piece of legislation. I congratulate the Attorney and his staff on bringing it to the House. I commend the bill to all honourable members.