



Speech by

**JULIE ATTWOOD**

**Member for MOUNT OMMANEY**

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Hansard 11 September 2003

### **CHILD PROTECTION [INTERNATIONAL MEASURES] BILL**

**Mrs ATTWOOD** (Mount Ommaney—ALP) (3.29 p.m.): This bill is the culmination of many years of work by many countries to reach an agreement about how to resolve international jurisdictional conflicts in relation to children. The convention was drafted by a Special Commission of the Hague Conference on Private International Law in 1996. The Hague conference is an intergovernmental organisation which meets two or three times a year in the Hague, Netherlands, to negotiate and draft multilateral treaties in the field of private international law. Australia has been a member of the Hague conference since 1973.

The 1996 special commission involved family law experts from 48 countries. A Queensland Department of Families official represented the Australian states and territories in the Australian delegation to the special commission. Further, I understand that Professor Peter Nygh, a distinguished Australian lawyer and academic in the field of international conflict of laws, provided advice to the special commission in the drafting of the convention.

Since the drafting of the convention, Queensland has been involved in developing a legislative scheme to implement the convention in Australia. In 1997 a working group of state and Commonwealth officials was established under the auspices of the Community Services Ministers Council and the Standing Committee of Attorneys-General to make recommendations about how to implement the convention in Australia. The working group released two issues papers in 1998 for consultation on how the Commonwealth should implement the family law aspects of the convention and how the states and territories should implement the child protection aspects of the convention.

From this consultation process, drafting instructions for model legislation was prepared by the working group. At the request of the Community Services Ministers Council and the Standing Committee of Attorneys-General, the Office of the Queensland Parliamentary Counsel prepared the model legislation, which was approved by the Parliamentary Counsel's committee. This model legislation was used as the basis for amendments made to the Family Law Act 1975 by the federal parliament to implement the family law aspects of the convention. It has also been used as the basis for this bill and it is expected that it will be used by other states and territories.

This bill has clearly gone through a long process of consultation and negotiation in which Queensland officials were integrally involved. Australia signed the convention on 1 April 2003. Prior to signing the convention, the Commonwealth tabled a national interest analysis of the convention in the federal parliament on 12 June 2002. In report No. 46 the Joint Committee on Treaties recommended the ratification of the child protection convention after invitations to state and territory governments and the general public for submissions. Public hearings were held in May 2002. In its report, the joint committee stated that the proposed ratification of the convention would help to resolve a number of problems under the current arrangements: removal of jurisdictional uncertainty, finality in litigation, recognition of parental responsibility under the law, provisions covering cross-border access cases and international cases involving protection of children from abuse and neglect.

The formal cooperation procedures set out in the convention will apply to a range of cases including overseas authorities making requests to transfer child protection measures for children immigrating to Australia, cases in which children subjected to foreign protection measures are brought to Australia without notice to Australian child protection authorities, cases in which care proceedings are taking place in Australia but the child is removed to another country prior to the conclusion of the proceedings, overseas authorities asking Australian authorities to check on the welfare of a child visiting Australia on an access visit and providing a report, and parents in Australia seeking the transfer to Australian authorities of children in the care of overseas child protection authorities.

The convention came into force in Australia on 1 August 2003 and federal legislation implementing the parental responsibility aspects has already commenced. It is timely for this bill to be debated so that the convention can be fully implemented in Queensland. I congratulate the minister and commend the bill to the House.