



Speech by

Hon. K. LINGARD

MEMBER FOR BEAUDESERT

Hansard 10 September 2003

EVIDENCE [PROTECTION OF CHILDREN] AMENDMENT BILL

Hon. K. R. LINGARD (Beaudesert—NPA) (12.23 p.m.): I join with the opposition in supporting the Evidence (Protection of Children) Amendment Bill 2003. I believe in the fundamental objectives of the bill. I believe it provides for changes to the procedures for giving of evidence by children and that those fundamentals will create an environment through legislation that is supportive of child victims of sexual and physical abuse. Quite obviously, I believe it is essential that the criminal justice system operates in a way that does not alienate child victims from a judicial process through which they have a right to seek redress.

I have just finished reading Bryce Courtenay's book entitled *Matthew Flinders' Cat*, which I think is one of his recent books. It has taken me quite a few months because usually I read Bryce Courtenay when I travel, but I have only finished it in the last couple of weeks. I think the Attorney-General should read Bryce Courtenay's book if he has not read it. He should have a look at the section which specifically refers to Queensland in a very derogatory manner. The basis of the book is that a QC who becomes a derelict on the streets of Sydney obviously becomes friends with a young child who is a street kid. The young child gets himself into trouble. Then the reference to what happens in a children's court and the specific reference to Queensland is extremely derogatory. Anyone who reads the book would have a very bad opinion of Queensland's legal system for young children.

Mr Poole: You started that book 18 months ago.

Mr LINGARD: I told you I read when I travel. It is probably the one I was reading when travelling with the member opposite. I think when the Attorney-General reads it a comment or letter to Bryce Courtenay referring to this particular legislation would be appropriate. I would hate to see that comment again referred to by Bryce Courtenay. It is extremely derogatory to Queensland's legal system.

I obviously agree that the 10 acts—they include the Bail Act, the Childrens Court Act, the Criminal Code, the Criminal Law (Sexual Offences) Act, the Criminal Proceeds Confiscation Act, the Director of Public Prosecutions Act, the Evidence Act and the Justices Act—should be amended. The intent of the legislation is to encourage more children who are victims of sexual and physical abuse to come forward. We would obviously agree with that.

I refer again to the book that I have been reading. I believe that if any child had the thoughts that are outlined by Bryce Courtenay then quite obviously one would understand why children do not come forward when they have had something happen to them. Hopefully, it will completely change the environment for children in the Queensland criminal justice system. Hopefully, it will make our courts more sensitive when dealing with children who are victims or witnesses and ensure the legal process does not add to their stress and suffering. Obviously, if it does limit the trauma and stress for a child appearing in court hopefully it will improve the reliability of evidence and the intentions of young children to come forward.

I agree with the prerecording of all evidence at a preliminary hearing unless the court orders otherwise. I support the mandatory use of CCTV or screens, the entitlement to have a support person in court seated nearby and within sight, the mandatory exclusion of all but certain persons from the court when the child is giving evidence about a sexual offence, the restrictions on the right to call a child as a witness at committal hearings and the restrictions on the type of questioning that can be conducted if a child is a witness at a committal hearing.

This legislation involves abolishing the recent complaint rule which required judges to direct juries to question the credibility of a complainant who did not immediately report abuse. I refer again to the book by Bryce Courtenay. To think that what he says can happen in Queensland courts is objectionable.

I note the comments of the member for Surfers Paradise about husband and wife evidence. However, in child abuse cases I would have no concerns about removing the right of a husband or wife to refuse to give evidence against their spouse. I believe in enshrining for the first time in statute the obligation of the prosecution to disclose their case to the defence and also amending the Criminal Code to include a presumption that a child under the age of 12 does not have the capacity to consent to sexual acts.

I note that measures such as court design, witness support, guidelines for interviewing and counselling protocols will be considered. I support the Attorney-General in any intention he has to improve whatever we can for young children who find themselves in this sort of situation.