



Speech by

**Hon. K. LINGARD**

**MEMBER FOR BEAUDESERT**

Hansard 12 November 2003

**EDUCATION AND OTHER LEGISLATION (STUDENT PROTECTION) AMENDMENT BILL**

**Hon. K. R. LINGARD** (Beaudesert—NPA) (12.21 p.m.): I rise to speak to the Education and Other Legislation (Student Protection) Amendment Bill 2003, and I do so on behalf of Mr Stuart Copeland, who is the shadow minister for education. He has gone to the funeral for RM Williams in Toowoomba. I would like to indicate at the outset that the opposition will be supporting the bill. The opposition firmly believes that the interests, wellbeing and rights of children should be the central focus in addressing issues surrounding child abuse and the protection of our young people. I acknowledge and welcome that the spirit of this bill ensures that these interests and rights of Queensland children are enshrined as the primary consideration.

In speaking to this bill, I would like to reinforce my admiration and support for teachers and education and training providers in our communities. I recognise the immense work they achieve in caring for and supporting young people in the honourable and genuine way in which they undertake their role. The vast majority of these teachers provide wonderful role models to the children in their care, and for that we are truly thankful. However, it is an undeniable fact that a handful of teachers and staff employed in schools are not honourable and genuine in their care and protection of young people. Indeed, a small number abuse their position of power. It is imperative that, firstly, to protect the interests and wellbeing of young people and, secondly, to protect the fine reputation of Queensland teachers we prevent this handful of teachers from contact with young people and from participating in our school system.

In placing children as the primary consideration, the bill will therefore seek to ensure that all teachers and school staff are of suitable character to work with young people. Since 1 January 1998, the Board of Teacher Registration has received criminal history information on an application for teacher registration from the Queensland Police Service to assist it in assessing the character of the applicant. However, as of September 2002, it was estimated that approximately 62,000 of the 82,000 registered teachers in Queensland had not been subject to a criminal history check. I acknowledge that the board is now undertaking in stages the somewhat arduous task of conducting criminal history checks on these teachers registered prior to 1998.

I note that the amendments brought about through this bill have been in response to the 2003 *Report of the board of inquiry into past handling of complaints of sexual abuse in the Anglican Church diocese of Brisbane*. This report, which was tabled in the Queensland parliament on 1 May 2003, highlighted many areas of serious concern in relation to the handling of sexual abuse complaints in schools, and weaknesses in systems for checking and monitoring the suitability of teaching and non-teaching staff to work with children.

All members will remember the tabling of this report in the House. It was a very emotional, intense time. I would like to recognise the genuine and compassionate way in which the Most Reverend David Phillip Aspinall went about facing up to the serious allegations that had been levelled at the Anglican Church. If we are to effectively protect children in the future, we must be open and honest about the past. I believe Archbishop Aspinall aptly conveyed this in his address to the Synod of the Diocese of Brisbane on 22 June 2003, where he stated—

The only way we can move on is if we face the hurtful reality of what has happened, extend care and support to those harmed and take steps to ensure as far as possible that it never happens again.

In response to the tabling of the board of inquiry's report, the state government established a ministerial task force, including the Minister for Police and Corrective Services, the Minister for Education and the Minister for Families and Disability Services to act on the recommendations of the report and develop a response. The ministerial task force was requested to focus on ways and means whereby the existing situation in schools can be improved so as to better prevent, detect and deal with sexual abuse of students by school employees.

In September of this year the ministerial task force released its proposals which now make up the amendments found in this bill. Before speaking to the specific amendments that the bill enacts, I would like to clarify for the benefit of members that the Board of Teacher Registration is the professional registration body of teachers in Queensland, while the Commissioner for Children and Young People has responsibility for employment screening of non-teaching staff employed in schools.

I would like now to turn to the specifics of the bill. I note that the bill has three main objectives: firstly, to enhance the capacity of the Board of Teacher Registration to screen, monitor and make decisions about the suitability of teachers to work with children; secondly, to enable the Commissioner for Children and Young People to take into account decisions made about a teacher by the Board of Teacher Registration for the purposes of deciding a person's suitability to obtain or continue to hold a blue card; and, thirdly, to require providers of alternative education and flexible arrangements to hold a blue card.

In order to meet its objectives, the bill amends three acts—the Education (Teacher Registration) Act 1998, the Education (General Provisions) Act and the Commission for Children and Young People Act. I will discuss these amendments broken down into three acts. First of all, I turn to the Education (Teacher Registration) Act 1998. A very important new section 5A will be inserted to require the board to place primary consideration on the welfare and interests of children in performing functions in relation to registration of applicants as teachers. Amendments will facilitate the board's increased access to relevant information for the purpose of assessing the good character of registered teachers. This will include the ability to access full criminal history, certain police investigative information and information about a person's teacher registration status in other jurisdictions. Importantly, it will also include information from school employing authorities regarding a person's dismissal or resignation from teacher employment that has come as a result of an investigation of allegations of harm caused or likely to be caused to a child.

Increasingly, the communication and information transfer between these relevant bodies and the board is vital in preventing teachers of poor character slipping through the suitability checks in place. There has been significant concern that there was inadequate sharing of information by employers with the board about teachers dismissed for improper conduct. This failure to communicate has led to certain dismissed teachers being able to seek employment elsewhere without the board being aware of the dismissal and reasons behind that dismissal. We must be vigilant, and the sharing of information and communication is paramount.

In order to enhance the effective response to an imminent risk of harm to children, the board will be empowered to suspend registration whilst it conducts an inquiry. This will mean that teacher may not be employed if they do not have registration or if it is suspended. I believe the ability to immediately suspend a teacher is important in order to address past mistakes that the Anglican Church report highlighted, where action to address complaints of abuse were not undertaken quickly enough to protect the wellbeing of children.

If the child faces an imminent risk of harm, then the board must act promptly in suspending the teacher until such time that an inquiry can take place. It is important to note that the risk must reasonably be an imminent risk to the child. I note that under the legislation the suspended teacher has a right of appeal to the District Court. Under the legislation it will become mandatory for the board to refuse to register or to cancel a person's registration where the person is convicted of a serious offence, unless the board is satisfied that there are exceptional circumstances that indicate it would not harm children for the person to work in a child related field.

I note that a serious offence includes serious violent offences under the Penalties and Sentences Act 1992, a number of other serious offences under the Criminal Code outlined in schedule 1 of the bill and similar offences conducted in other jurisdictions.

The bill will enable the board to inform relative agencies about the outcome of its disciplinary inquiries, namely, the person's employer, interstate and overseas teacher registration authorities, the Minister for Education, the Director-General of Education, the Commission for Children and Young People other relevant entities.

The amendments will seek to enhance the board's capacity to conduct disciplinary inquiries expeditiously and more comprehensively. In the past, the structure of the board's investigation and disciplinary processes have been open to criticism because in this structure the body that decides there is a case to answer also manages the investigation and determines the outcome. The bill therefore

requires that the board refers matters relating to the assessment of a registrant's good character to a committee of inquiry, who will make recommendations and findings to the board. The committee will comprise of a chair with noted credentials in the legal profession, two practising teachers and a community member who is neither in the legal profession nor a registered teacher. None of these people will be board members.

Under the provisions of the bill, stringent controls will be placed on the protection of the confidentiality and use of information supplied to the board. It will be an offence for any person who discloses confidential information that they may be privy to. Information can only be used for the purpose of determining whether a person is, or continues to be, of good character to be registered. The board must provide the person with an opportunity to respond to the information. The board will be required under the bill to make guidelines regarding its use of information and make those guidelines available on request.

As far as the education act is concerned, the bill will establish a mandatory provision for school staff to report actual or suspected sexual abuse of schoolchildren by other school based employees to specified persons within the school system who must then report the matter to the police. It will be an offence to fail to comply with the reporting requirement. The bill will consequently create legal protections for complying with the reporting requirement.

I can appreciate that this provision has been required to ensure that all complaints in the school receive a structured, consistent and appropriate response. Teachers should not be afraid to come forward with legitimate concerns of abuse that may be taking place, and legitimate reporting of abuse should be protected from litigation. In the past, legitimate complaints of alleged abuse have been dismissed or ignored and not afforded proper due process. This provision seeks to ensure a set process is followed and no complaint is simply dismissed or ignored.

However, concerns have been raised in relation to the mandatory reporting of actual or suspected sexual abuse of schoolchildren by other school based employees. There is concern that this mandatory reporting will have a negative impact on the rights of teachers and place them open to spurious complaints made under legal protection.

I know that there have been problems with this compulsory reporting requirement in New South Wales. Teachers there are required under legislation to report suspicions to the Department of Community Services. The Independent Education Union is reported to have said that the three years after the mandatory reporting was introduced were a nightmare for teachers caught in the child abuse definition because every allegation, even if unproven or withdrawn, labels the teacher a child abuser, a charge that has a devastating impact. It has been reported that investigations into child abuse included incidents of restraining violent students or hugging distressed students.

The New South Wales government was forced to amend the legislation this year. Changes were made to replace the child abuse definitions with a concept called 'reportable conduct' in order to stem the prevalence of vexatious complaints. I note that the New South Wales Premier stated that he did not want people to believe that they can hurt a reasonable and good teacher by inventing allegations that ordinary classroom behaviour, like restraining a child in a fight or comforting a child, is child abuse. I would hope that in drafting this legislation the minister has looked closely at the New South Wales experience and the changes they were forced to make following their initial mandatory reporting legislation.

I note that under the legislation before the House today if a staff member is proved to make a vexatious or malicious report of sexual abuse of a child by a fellow employee, the report will not be deemed to be made under the mandatory reporting provisions and they will not be protected from liability, making them open to a defamation suit. I hope that this provision will seek to safeguard our teachers against vexatious reporting. However, concerns still remain. I would like the minister to clarify in her response how teachers will be effectively protected from vexatious reports of sexual abuse, especially in the context of the New South Wales experience.

It is very important that the rights of teachers are acknowledged and that we must do all we can to protect them from malicious or spurious reporting of abuse against them that can ruin their characters and their careers and cause untold emotional and reputation damage. This is a sensitive area and one in which a balance is required. However, in order for the interests and welfare of children to be the primary consideration, there must be provisions in place to ensure legitimate complaints are brought forward and properly investigated.

I turn to the Commission for Children and Young People Act. Presently the Commissioner for Children and Young People is not able to take account of a decision by the board about a registered teacher when determining a person's suitability to work with children. The bill will now enable the board to notify the commissioner of a decision it has made about registrants, and consequently the commissioner will be able to take this into account. Providers of programs outside of schools through alternative educational programs or as part of the flexible arrangements which have been introduced

with the passing of the Youth Participation in Education and Training Act 2003 will now be required to apply for a blue card.

The bill importantly makes the protection of the rights, interests and wellbeing of the children the primary focus in the processes of registering teachers and assessing their continued registration as well as through child abuse complaints processes. Nevertheless, it is important to also never forget the rights and liberties of teachers in these processes. As I have stated, it is a sensitive issue. However, in properly protecting the wellbeing of Queensland children, it is necessary that we break down the barriers to weeding out child abuse in our schools. The interests and safety of the children must be the primary consideration.

In promoting the spirit of this bill, which seeks to place the interests and welfare of our children at the forefront of consideration, I want to put on record what a great shame it is that the state government will not seek to replicate this spirit in its approach to addressing the overall prevalence of child abuse in Queensland through calling a comprehensive royal commission into child abuse. A royal commission would truly place the interests and wellbeing of Queensland children at the forefront and seek to get to the very bottom of the occurrences of child abuse in Queensland. We must expose the bare truth and facts behind the occurrence of child abuse in our state so that we can be best placed in terms of structures, powers and guidelines to comprehensively weed out paedophilia and ensure that Queensland children are safe and protected.

Scratching the surface through limited and narrow inquiries is simply not good enough. Only when we have a royal commission into child abuse in Queensland can we legitimately say that we are placing the interests and wellbeing of children as our primary consideration. I commend the bill to the House.