



Speech by

**GEOFF WILSON**

**MEMBER FOR FERNY GROVE**

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Hansard 27 April 1999

### **CRIMINAL CODE (STALKING) AMENDMENT BILL**

**Mr WILSON** (Ferry Grove—ALP) (2.50 p.m.): It is with great pleasure that I rise to speak in support of the Criminal Code (Stalking) Amendment Bill. I speak from the experience of a constituent in my electorate. One of the first people to come to see me after the June election last year was an elderly man who, along with his wife, had been subjected to the most reprehensible stalking over a period of two or three years—maybe a little longer. It is a case of stalking which, I would suggest, would be able to be more readily prosecuted under the amendments put before the House by the Attorney-General of the Beattie Labor Government.

The first thing this chap said to me was that he wanted to draw to my attention the fact that newspapers so typically speak about stalking as an offence that is committed by men against women. He had written to the Courier-Mail and the Sunday Mail, on a couple of occasions I believe, to draw to their attention that he and his wife were experiencing stalking at the hands of a middle-aged woman.

In highlighting this issue, I expressly dissociate myself from some of the comments of the immediately preceding speaker, particularly in regard to the suggestion that this legislation is imbued with feminist ideology and in regard to some of the other observations he made about the political dynamics that might develop between women's groups and men's rights groups and the way they might seek to use this legislation or encourage false or vexatious claims in some sort of competition to muster statistics to show that either men or women are predominantly the victims of this sort of reprehensible conduct.

I am dealing with a real live case. Frankly, I found this chap's story quite disturbing. I believe that he would be in his late 60s or early 70s, as would his wife. About four years ago, tragedy struck their family. Their young son was involved in a tragic incident with the daughter of a woman who later became, so it has been said to me, the perpetrator of three or so years of stalking of this elderly couple.

As I say, the typical case that is publicised in the newspapers is that of men stalking women. The press seems to focus on this. To some extent that is appropriate, given that the highest incidence of this reprehensible behaviour is by men against women. The Attorney-General's discussion paper about possible changes to this legislation, which was such an excellent contribution to the debate, acknowledged that stalking by women against men is also a problem in our society.

Another point this chap wanted to bring home to me is that the newspapers seem only to highlight stalking involving celebrities or high profile people in our community, or those to whom the newspapers wished to give such titles, the implication being that it only happens to these sorts of people and that if it were not happening to them then this sort of behaviour would not be getting any exposure in the newspaper. This chap wanted me to be well and truly aware that ordinary people who have no special or privileged place in our society, who have been battlers all their lives, have through some misfortune ended up on the receiving end of this behaviour.

If members could have been in my office whilst he was talking to me, they would have seen how distressed he was. It was not only distress originating from the tragic circumstances that triggered this subsequent behaviour—circumstances that it is not appropriate for me to go into—but distress resulting from the oppression of the emotional terrorism he and his wife had been subjected to over a three to four-year period.

Essentially the behaviour consisted of what, in and of itself, one would think was fairly innocent conduct on behalf of the alleged perpetrator—phone calls and letters—but unfortunately it was not merely phone calls and letters; it was the things that were said by this grieving mother to this elderly chap and his wife. It reached a point where they installed an answering machine and now refuse to take any incoming calls directly. They kept tape recordings of what was said for use, they hoped, in some police action. They also kept letters that were sent. My recollection is that 100 or so letters had been received over this period. They contained pieces cut from newspapers and re-assembled to create the words to be conveyed to this couple. The comments and observations were all negative, destructive, critical and threatening.

This activity continued for a very long period of time, affecting them not only physically—they were elderly people experiencing the normal health difficulties of their senior years—but also emotionally. If it were not for the support they received through one of the long-established local churches, the priest at that church and the loving and accepting congregation they were part of, then I do not know what act of desperation they might have been led to undertake, either towards the person they were complaining about or themselves. Fortunately, they have stayed on the straight and narrow and hung on to their sanity and as much of their wellbeing as they can, despite this behaviour.

Through all this time the police were from time to time advised of the conduct but, as often happens in these circumstances, the difficulty the police had was in getting sufficient verifiable, concrete evidence to then take action against the alleged perpetrator. This behaviour arose out of a more significant event that was unable to be remedied.

With that particular experience under my belt, when the Attorney-General indicated that he wanted to move in this regard, I provided that chap—and circulated to the relevant neighbourhood watch organisations in my area—with the discussion paper, wanting to ensure that any comments from the local community on this very important modern-day aberrant behaviour were passed on to the Attorney-General. I trust that their views were, in fact, passed on to the Attorney-General.

That brings me to the second point that I wish to emphasise in speaking in support of this Bill. I refer to the extensive consultation process that the Attorney-General has undertaken in relation to this legislation. I believe that it is highly commendable that not only have 400-odd organisations within Queensland been contacted in relation to this legislation, but also a great attempt was made to go out into the local community and make sure that people had their say on this legislation.

As the Attorney-General said in his second-reading speech, the original legislation was groundbreaking legislation in Australia. Subsequently, a number of other jurisdictions have adopted legislation of similar objective, if not similar machinery parts. By moving these amendments to facilitate people taking legal action to bring to an end the offensive behaviour of stalking, the Attorney-General has kept the Queensland legislation at the leading edge of law reform in this particular regard.

I particularly commend the Attorney-General for the extended definition of "stalking". Under the previous legislation, victims had to be able to prove that they feared that the offender would carry out a violent act against them. Under this legislation, there is a recognition that stalking can cause serious mental, psychological or emotional harm, not just physical harm. The case that I was presented with when newly in the position of member for Ferny Grove highlights very well the reality that, more often than not, I would suggest, the impact upon the intended victim is more likely to be of serious mental, psychological or emotional harm. We must acknowledge that that is a substantial detriment.

Another important change that the Minister has included in this Bill empowers the courts to issue restraining orders to stop the stalker from contacting the victim. I believe that this is a commendable initiative, because what the victim is most earnestly seeking is an immediate end to this behaviour. The terror of the dripping tap of this behaviour needs to be able to be brought to an end very quickly in advance of the ultimate hearing before a magistrate that determines whether or not a substantive offence has been committed and then, if so, the appropriate penalty.

There are a couple of other aspects of this legislation that I want to endorse. The legislation now simplifies legislation which, I confess, I found to be confusing and complex in its previous format. Anything that is complex or difficult to interpret in the law makes it harder for the front-line law enforcement officers to take practical action in support of people in the local community who make complaints to them. This legislation addresses the reality that the experience of victims is that stalking may consist of not only repeated acts of the same kind but different acts over a course of time or of one protracted act. Indeed, it might consist of conduct that satisfies, over a period, all of those different descriptions.

The impact of stalking conduct is that it is not often direct, it is indirect; it is subtle; it is very hard to pin down; and, act by act, it might be seen as incidental, of not much significance or warranting not much comment. But when it is repeated time after time or varied slightly—as happened in that particular case to which I referred at the beginning of my comments—then it has the same impact as if one single offensive act were done to the victim. The Bill will redefine the offence of stalking to provide

that the conduct would cause the victim apprehension or fear reasonably arising in all the circumstances, of violence to a person or property or, alternatively, that it does cause such apprehension or fear or some other detriment that reasonably arises in all the circumstances. That certainly will assist people in addressing this complaint.

Finally, I support the penalties being raised from a maximum of three years to five years' imprisonment and from five years to seven years in the event that the crime of unlawful stalking is committed in circumstances of aggravation. Obviously, the appropriate penalty in either case is to be determined by the courts. In my view, it is time that we treated the offence of stalking as a serious criminal offence. Stalking is not a soft or trendy offence, as some might have considered it to be when the legislation was first introduced some years ago. Bitter experience—and each member of this House no doubt could relate stories similar to mine—tells us that this is a serious problem in our local communities. People are looking for practical, ready means to bring welcome relief to the oppression that they have experienced over a long period from this sort of behaviour.

I am particularly pleased to wholeheartedly support this legislation. I support its general principles. Through at least one of the cases that I have mentioned, and from anecdotal information about this issue that has come to my knowledge since July last year, it is quite clear that the practical problems that people face in this situation can be effectively dealt with by this legislation. If, in the future, there are more effective steps that we can take to relieve people of the burden of this sort of offence, then we should keep an open mind—and I am sure that the Attorney-General will—to any further amendments that experience tells us should be made to this legislation to make it even better than the very good legislation that it already is. I support the Bill.

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