



Speech by

Mrs J. GAMIN

MEMBER FOR BURLEIGH

Hansard 10 March 1999

CHILD PROTECTION BILL

Mrs GAMIN (Burleigh—NPA) (3.27 p.m.): Although the Opposition supports the Child Protection Bill, there are some aspects I want to comment on in my brief contribution to this debate. Some amendments will be moved by the shadow Minister during the Committee stage.

No-one could object to the obligation on the State to see that a child is protected and to obtain an order to take a child into protective custody if the child is likely to come to harm. However, there do seem to be some anomalies in terms of what will be classified as a parent under the new legislation.

Throughout most of the Bill the word "parent" has a broad meaning and can include anyone caring for the child in an ongoing way—not only a parent but step-parents or grandparents with whom the child lives. Temporary carers are not included in the Bill's definition of "parent"—that is, relatives with whom the child stays for a few weeks or neighbours who mind the child each day. Of course, persons who stand temporarily in loco parentis, for example school principals, are excluded. Yet clause 11 defines a parent of a child as the child's mother, father or someone else other than the chief executive having or exercising parental responsibility for the child. In several other sections the Bill identifies "parent" of a child as meaning the child's guardian and, if the child is in a person's custody or guardianship under this Bill, includes anyone else who would be the child's guardian if the person did not have custody or guardianship of the child. It would be helpful to have these anomalies tidied up.

The Oxford Dictionary defines "parent" as a person who has begotten or borne offspring, a father or mother, or a person who has adopted a child. "Parenting" is defined as the occupations or concerns of parents. I fear that the new legislation is getting quite a long way from this standard interpretation of exactly what is a parent and what parenting means.

We also need to remember that parents have rights and expectations when it comes to their children's behaviour, and we cannot go so far as to remove those rights or to prevent them from reasonable discipline within their households. For instance, we cannot broaden the definition of "abuse" or "violence" to include smacking—the root causes of serious abuse and violence would be totally swamped and lost in a flood of nonsense about what is valid or invalid in terms of parental rights and responsibilities.

Most of us in this House are parents and would believe that a smack is an acceptable form of discipline for a child. All of us look towards raising happy and healthy children who will grow into responsible adults—dare I say normal adults? How many of us here today are normal adults? But certainly we would hope to bring them up to be responsible adults who will play their part in the community in which they will live and work and, we hope, make some contribution to the community in which they will live and work.

We love our children. Loving our children does not mean that we will let them get away with murder and mayhem in our households. Loving our children means that we hope they will learn lessons of self-discipline, and it is up to us to teach that discipline in a caring and loving manner. Provided we exert our own discipline within ourselves and we do not take to them with a baseball bat or the buckle end of a webbing belt, there is nothing wrong with the discipline of a short smack, swiftly delivered on a receptive bottom. Discipline with love is important, and parents should be the ones taking responsibility for raising their children in a loving, caring and disciplined environment. This responsibility should not be taken over by Governments or Government agencies.

Section 280 of the Criminal Code specifically allows parents, or those in charge of children, to exert reasonable discipline where necessary. Section 280 states that it is lawful for a parent, or a person in the place of a parent, or for a schoolteacher or master to use, by way of correction, discipline management or control towards a child or pupil under the person's care, such force as is reasonable under the circumstances. So it is of some concern that section 123 of the Child Protection Bill has the effect of wiping that out. It does seem that the Criminal Code and the Child Protection Bill—these two pieces of legislation—are somewhat at odds with each other. The shadow Minister has already expressed concern and will be bringing this matter forward at the Committee stage.

Of course, not all parents are as loving and caring as we are. Some parents are abusive of their children. Some parents are brutal in their treatment of their children. Some parents should not be allowed to care for children at all. It is said by animal lovers that people should not be allowed to keep dogs if they cannot treat them properly. Surely children are more valuable than dogs. But to try to prevent parents from exerting reasonable discipline, and to try to prevent parents from smacking their children in a reasonable manner, will not stop abusive parents. There are dozens of other ways of abusing children, and a naturally abusive parent will know them all. The whole purpose of child protection legislation is to ensure that children at risk of suffering significant harm are protected.

There is another important aspect that must be understood in the context of any child protection legislation, and that is responsibility. It is all very well to say that parents are responsible for their children and that the department is responsible for protecting children from irresponsible parents who have placed them in dangerous situations. But children, too, must be taught responsibility. They will never grow into responsible adults if they are not trained, from an early age, to take responsibility for their own actions and behaviour. We have all been through this with our own children. We have taught them that for every action there is a consequence. By virtue of their actions, they are responsible for the consequences. We understand this, as adults, because we have learned the lessons ourselves. Sometimes these lessons are painful, but so necessary if we are sincere in our care for children.

It should be remembered that the coalition, when in Government, put through amendments to the Criminal Code in 1997. There are many sections of the Criminal Code which deal with the protection of children, including: chapter 22, sections 208 and 209, unlawful and attempted sodomy; section 210, indecent treatment of children; section 213, owner permitting abuse of children on premises; section 214, carnal knowledge; section 217, procuring a young person for carnal knowledge; section 218, taking a child for immoral purposes; section 222, incest; section 228, obscene publications and exhibitions; and section 229B, maintaining a sexual relationship with a child.

Section 229 makes it quite clear that, except as otherwise expressly stated, it is immaterial, in the case of any of the offences defined in this chapter committed with respect to a person under a specified age, that the accused person did not know that the person was under that age, or believed that the person was not under age. Knowledge of age is immaterial. Sections 363 and 363A deal with child stealing and abduction. Section 364 deals specifically with cruelty to children. Section 364 states—

"A person who, having the lawful care or charge of a child under 16 years, causes suffering to the child by—

- (a) failing to provide the child with adequate food, clothing, medical treatment, accommodation or care when it is available to the person from his or her own resources; or
- (b) failing to take all lawful steps to obtain adequate food, clothing medical treatment, accommodation or care when it is not available to the person from his or her own resources; or
- (c) deserting the child; or
- (d) leaving the child without means of support ..."

Many aspects dealing with child protection are covered in the Criminal Code.

Finally, this long-awaited update of child protection legislation has the laudable objective of responding to increased community expectations that children will be protected from abuse and neglect, that the Department of Families, Youth and Community Care will provide safe alternative care for children who need to be removed from home, and that the department will provide quality services to assist children who suffer abuse and neglect. The Bill before the House has very high aims and ambitions for the assistance and protection of children who suffer abuse and neglect. I can only hope that these high aims and ambitions do not become obscured in the day-to-day internal workings of the huge and monolithic Department of Families, Youth and Community Care, and that departmental officers are constantly reminded of the stated objectives of this legislation and the stated means of achieving these laudable objectives.
