



Speech by

Mrs J. GAMIN

MEMBER FOR BURLEIGH

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CRIMINAL CODE (STALKING) AMENDMENT BILL

Mrs GAMIN (Burleigh—NPA) (5.19 p.m.): The Opposition supported the original stalking legislation back in 1993 and, of course, supports this amendment Bill, as it upgrades the existing legislation and makes it more effective and relevant to women today. Many women and women's groups have been involved in the consultation process during the examination of the impact of the Criminal Code on women in our society. I thank the Women's Legal Service for providing me with briefing notes on information gathered in relation to unlawful stalking in Queensland.

"Unlawful stalking" is defined in section 359A of the current and unamended Criminal Code and in general includes the following elements—

engaging in a course of conduct, consisting of a concerning act, on at least two separate occasions, to another person or persons, where the offender intends the victim to be aware the conduct is aimed at him or her—even if directed against another—that is, a child or a family, and the conduct would cause a reasonable person in the victim's circumstances to believe that a concerning offensive act is likely to happen.

A "concerning act" includes the following—

- (a) following, loitering near, watching or approaching another person;
- (b) telephoning or otherwise contacting another person;
- (c) loitering near, watching, approaching or entering a place where another person lives, works or visits;
- (d) interfering with property in the possession of another person;
- (e) leaving offensive material where it will be found by, given to or brought to the attention of, another person;
- (f) giving offensive material to another person, directly or indirectly;
- (g) an act of harassment, intimidation or threat against another person; or
- (h) an unlawful act committed against the person or property of another person.

A "concerning offensive act" is an unlawful act of violence against the victim's person/property, or the person/property of another about whose health/property the victim would reasonably be expected to be seriously concerned. An "act of violence" includes an act depriving a person of liberty, and violence against property includes an unlawful act of damaging, destroying, removing, using or interfering with property. It is a defence to a charge of unlawful stalking to prove that the conduct was engaged in for the purpose of a genuine industrial dispute, that is, a picket line, political or other public dispute, that is, demonstration, or issue carried on in the public interest, that is, paparazzi/photographers. Those are the provisions in the current Criminal Code.

However, since the offence of stalking was first enacted in Queensland, some difficulties of interpretation have come forward. Wide consultation was followed by a series of workshops with key stakeholders, such as the Women's Legal Service and the Gold Coast Domestic Violence Support Service. Numerous submissions were received and, as a result, this amendment Bill was prepared to redraft the anti-stalking laws.

The current stalking provision in section 359A, at the end of Chapter 33 of the Criminal Code, which I have already described, is repealed and a new Chapter 33A, titled "Unlawful Stalking", has been inserted with proposed new sections 359A to 359F. Definitions for key words and phrases are redefined, such as the definition of "detriment", which now includes but is not limited to apprehension or fear of violence, serious mental, psychological or emotional harm, or prevention or compulsion in respect of lawful rights.

The elements of the offence of unlawful stalking are redefined and broadened. Five matters are stated that are immaterial to determining guilt of offending persons. Specific defences are listed and new defences are added, including defences to protect those who legitimately and reasonably conduct themselves in the course of undertaking a lawful trade, occupation or business, as well as other legitimate defences.

Punishment for unlawful stalking sets the maximum penalty for unlawful stalking at five years' imprisonment and for unlawful stalking with a circumstance of aggravation at seven years' imprisonment. The court is also given the power to issue a restraining order against a person whether or not the defendant is convicted of the offence charged. The Minister has expanded on those new provisions in some detail in his second-reading speech. I will not waste the time of the House by repeating them in detail. It is sufficient to say that the new provisions are necessary and supported, and this amendment Bill represents a considered view of all of the submissions received and the proposed amendments have substantial support among key stakeholders who have been involved in the consultation process.

Stalking can be broadly but not exhaustively divided into three categories— associated/related stalking, workplace harassment and stranger stalking. In the first two cases the victim will know the stalker. The aims of a stalker include ensuring that the victim is aware of the offender's continuing interest and to instil fear, intimidate and inhibit another's lifestyle, even though the conduct of the stalker may at first appear harmless. Many relationships and behaviours in stalking cases can be described as simple obsessional behaviours. A prior relationship frequently exists between the subject and the victim. The prior relationship varies in degree from customer, acquaintance, neighbour or professional relationship to dates and lovers.

In many cases, obsessional activities begin after either the relationship has gone sour or the subject perceives some form of mistreatment from the victim. The person then begins a campaign either to rectify the schism or to seek some type of retribution. Stalkers who fall into this category are the most dangerous and the ones that usually come to the attention of police officers. The majority of subjects are male. This type of stalker has been described as a domestic stalker or the "dependent, rejection-sensitive stalker". Many of the men in this category hide their dependency feelings behind a hyper-masculine or macho image and are chronically abusive towards women. That is why those who work in the field of domestic violence are extremely concerned about the problem of stalking. Men stalk when their relationship breaks down or they become obsessed with their victim, who is often known to them. It is connected with their need for control and power over their victim, and they usually achieve this by frightening the victim or by knowing personal details about the victim's life.

In conclusion, on behalf of women who have been or may become victims of stalking offences, I support this amendment Bill. Again, I thank the Women's Legal Service for providing me with a great deal of background material, including an information paper on unlawful stalking in Queensland which was produced by the Domestic Violence Coordination Office of the Queensland Police Service and from which I have quoted in this address.

I support the Women's Legal Service in its keen interest in the Government being prepared to commit funds to training police about the changes covered by this amendment Bill and the implementation of the new laws. Funding is also necessary to increase public awareness in the general community that stalking activities constitute a criminal offence and are subject to severe penalties. I commend the Bill to the House.
