



Speech by

Hon. ANNA BLIGH

MEMBER FOR SOUTH BRISBANE

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CHILDREN SERVICES TRIBUNAL BILL; COMMISSION FOR CHILDREN AND YOUNG PEOPLE BILL

Hon. A. M. BLIGH (South Brisbane—ALP) (Minister for Families, Youth and Community Care and Minister for Disability Services) (12.30 p.m.), in reply: The Bill before the House is the product of an extensive legislative review and Statewide consultations. The Bill proposes a number of very significant changes to the existing framework that governs the operation of the Children's Commission. The proposed changes reflect the views and experience of those who work in this sector. They also rectify the flaws of the current Act, which have hindered, in some cases, the work of the commission. The changes will expand the powers of the commission to investigate and resolve complaints and will add new responsibility to the work of the commission, particularly in the area of criminal screening of those people who work in areas involving children.

This is a very important piece of legislation. It goes to the safety and protection of children, to the quality of the services that are provided to our children and to the heart of good Government decision making, particularly in the Department of Families, Youth and Community Care and other Government departments providing services to children. I have to say that I was therefore very disappointed with the response by the coalition. What we heard in the speech of the member for Indooroopilly in the second-reading debate was an unfortunate rambling, disorganised and ill-prepared response to a Bill that has been before the Parliament now for a number of months. The response was characterised, firstly, by a confused policy position. For example, the member for Indooroopilly and the coalition, it appears, are supporting the view that volunteers who work with children should not be covered by this legislation, but at the same time they are saying that if volunteers are to be covered then all volunteers, including parents who are involved in an activity involving their children, should also be incorporated in the regime.

The member for Indooroopilly's contribution was in many cases factually incorrect, and no more so than when he alleged that the Government had failed to comply with a motion of the House last year that sought consideration of criminal sanctions for people with certain criminal histories when they apply for particular jobs. Those concerns of the Parliament and of this House were addressed by me and are included in a number of provisions in the Bill, about which I will be able to speak further in Committee.

As usual, the coalition's response was characterised by a degree of policy paralysis. While there was effort to find fault, no alternative proposals of any significance or substance were put forward. It was also characterised by a failure of memory. The member for Indooroopilly sought answers to a number of questions about resources that might be provided to the Children's Commission to fulfil the obligations of the Act. The honourable member for Indooroopilly might recollect a very extensive discussion at the Estimates committee, when both the Children's Commissioner and I were available to answer his questions and when the questions he asked in the Chamber last week were answered in extensive detail. I suggest that he and others with an interest return to those documents.

This Bill warrants much better treatment than it has received to date from the coalition. The response to date has been characterised by laziness, no attention to detail or facts and very sloppy research, not to mention very fuzzy thinking. This sort of law reform deserves a lot of consideration. It has been on the books for a number of months and, as I said, it deserves much better treatment than it has received.

A number of issues raised by the shadow Minister will be the subject of extensive discussion in Committee, so I will address only briefly the major concerns that he raised. One of his first concerns was in relation to the fact that the screening laws are not proposed to operate retrospectively. I remind the member for Indooroopilly that when the coalition Government introduced similar screening laws for teachers in amendments to the Education (Teacher Registration) Act 1988 it simply chose not to make those laws retrospective.

It is important to note that there are literally hundreds of thousands of people employed in a paid and unpaid capacity in child-related employment. What we sought to do with this legislation was introduce a completely new legislative framework to ensure the safety of children from workers and volunteers who might be looking to prey upon them. In doing so, we had an obligation to ensure that the framework being put forward would be one that was workable and reasonable. In my view, this Bill strikes that balance. However, where an employer is concerned or reasonably suspects that an employee may have a relevant criminal history that may make them unsuitable for child-related employment, there is a particular provision in clause 128 which provides the opportunity for an employer to screen somebody who might otherwise not be caught up by the Bill.

The member for Indooroopilly expressed concern that the Bill did not provide the commissioner with the opportunity to conduct, promote and monitor training or public awareness activities. I again draw his attention to clause 15 of the Bill, which provides in a number of parts the powers for the commission to advocate for the rights, interests and wellbeing of children, to conduct research into issues affecting children, and to monitor and review laws, policies and practices relating to the delivery of services to children. It provides specifically that the Children's Commissioner should be involved in public education around those issues. In my view, the member's concerns in that regard are entirely unfounded, and I draw his attention to clause 15.

As I have said, the member for Indooroopilly expressed some concern about the fact that he did not believe the Bill had addressed the motion agreed to by the House on 24 November 1999. The motion was moved by the member for Warwick and was seconded by the member for Yeronga. The motion called upon me as Minister and the Government in the drafting of this Bill to give consideration to making it a criminal offence for a person with a particular criminal history to apply for employment in child-related areas. It is patently untrue that the Bill fails to address that and patently untrue that the Government did not give any consideration to what was a bipartisan motion unanimously supported by the Parliament.

The regime that is being put in place under this Bill provides that when a person has been found unsuitable by the commissioner and issued with an unsuitability certificate and they then proceed to apply for employment in these areas they commit an offence, and the offence is punishable by a sentence of a maximum of five years' imprisonment, or 500 penalty units. As the member may be aware, and as we have discussed on a number of occasions, this Bill does impinge on the civil liberties of adults in an effort to protect children. In my view, it strikes what is always a very careful balance between those two objectives. The member's argument and his proposed amendments demonstrate that, in my view, he does not understand how the criminal screening provisions operate. This Bill is not about seeking to re prosecute those people who have broken the law and been punished for it; it is about protecting children and keeping unsuitable people out of the lives of children wherever possible.

According to the member for Indooroopilly, the Explanatory Notes for the Bill did not meet the requirements of section 23 of the Legislative Standards Act, which requires a brief assessment of the administrative cost to Government of implementing the Bill, including staffing and program costs. In my view, the Explanatory Notes meet the requirements amply. They state that criminal screening will operate on a cost neutral basis and that additional funding will be required by the Government for the community visitor program. As I have said, the Explanatory Notes are also supplemented by a great deal of detail provided to the member for Indooroopilly in the Estimates committee process. I draw the attention of the member for Indooroopilly to legislation he put before the House when he was Attorney-General. I would have to say that, by comparison, the Explanatory Notes that he provided to the House on a number of occasions went nowhere near as far in meeting those requirements about financial costs as the Explanatory Notes do in this case.

The member for Indooroopilly has also raised concerns about the availability of adequate resources for the implementation of the provisions contained in the legislation. As I have said, I am not going to go into that in any greater detail because it is all available to him if he just looked it up or cast his mind back a couple of months.

The question was raised as to whether the Government had taken into account the increased workload of the tribunal because of the range of matters that may come before it in the future. The Bill adds only one additional function to the work of the tribunal and that is the function to hear appeals against a decision of the commissioner which finds a person unsuitable to work with children. The issue of funding for the tribunal should its workload be increased will obviously be a matter that the Attorney-General and Minister for Justice and Minister for The Arts as the responsible Minister will monitor over

time and take through the normal Cabinet Budget Review Committee processes. However, I can assure the member for Indooroopilly that the current budget for the tribunal will be transferred to the Department of Justice and Attorney-General. I certainly do not anticipate that there will be an enormous pressure on workloads in the foreseeable future.

The member expressed a great deal of concern that sporting and recreation groups will find it difficult to have their staff screened by the commission and that they may find it puts budgetary pressure on them. I am very, very aware of the difficulties faced particularly by voluntary organisations and organisations that work in the not-for-profit sector. The matter of costs was one to which I gave a great deal of consideration, and I was assisted in that process by a number of organisations representing sporting groups and volunteer agencies.

The proposal in the implementation of this Bill is that the screening of paid employees will come at a cost of \$40, but that the screening of volunteers will be free. This essentially means that those organisations which rely extensively on volunteers will bear no additional costs as a result of this regime. In addition, the Bill is silent on the question of whether the cost of screening is to be borne by the employer or by the prospective paid employee. The cost may therefore be passed on to a preferred applicant for a paid position if a small organisation or, indeed, a large organisation wishes to do that. I would certainly suggest that they give active consideration to that.

The member expressed some concern that in a number of sporting and recreation groups a range of people move from being parents one day, and thus exempt, to being suddenly caught under the legislation and requiring screening and that this will cause a great deal of havoc. I know that there will be some discussion in Committee as to whether or not parents will be caught in the definition of "volunteers". It is the proposal of the Government that, if parents are involved in an activity in which their own children are active, they will not be caught in the definition of "volunteers" and therefore will not need to be screened.

I understand the member for Indooroopilly is putting forward the view that we should not have volunteers at all and should not cover them, but that if we do parents should be included. I do not think it is confusing. I do not think it is at all difficult for parents to distinguish between, for example, attending and working with one of their children involved in a netball club on a Saturday morning and work that they might do in a more formal capacity at other times when their own children are not involved. The question is not one for the parents but one for the employer to make sure that they have screened everybody who needs to be screened. That is why we put a very significant onus on the employers to be the gatekeepers and to meet their own duty of care.

The member also expressed some concerns about the exemption of practitioners and the definition of "registered business", and I am happy to clarify that for him. Currently, the work of health practitioners is governed by a range of registration boards which are established under various health practitioners Acts. There are, as he would know, a number of Bills before the Parliament to update those Acts. In some areas there is currently some degree of testing for registration purposes, but the Bills before the House propose a new regime for criminal history screening of health practitioners. It was not the role of this piece of legislation to duplicate other screening mechanisms and regimes. For example, we are not proposing to use this mechanism to screen teachers or Family Services officers. I can assure him that the Government is aware of the need to ensure that as many people as possible are covered through the most relevant screening mechanism.

Again, concerns were expressed about the number of visits that would be undertaken by community visitors. The commissioner has advised that visits to each visitable site will occur on, at the very least, a monthly basis. I am sure members will be aware that it will be the case that some visitable sites will require more attention than others and that we will have to look at an average over time, but that is certainly the intention.

Some concern has been expressed about the jurisdiction of the complaints powers under the Bill. I know that the Law Society has raised concerns in this regard, as have some other groups. I clarify that the advocacy role of the commission incorporates a role for every child who may have been treated unjustly or in a way that is adverse to their wellbeing. The commission has an active role to play in relation to complaints from all children and to advocate on their behalf. In doing so, however, the commission must give priority to the needs and interests of particularly disadvantaged children; those who are in or may enter out-of-home care or detention; those for whom there is no appropriate person to act on their behalf; those who are not able to protect their rights, interests or wellbeing; or those who are disadvantaged because of a disability, geographic isolation, homelessness or poverty.

With regard to enlivening the specific powers in relation to a complaint that might involve the provision of services to children, yes, those powers are limited not just to those children who are in the care of the department but to those children who have come to the attention of the department through, for example, a notification. In my view, the ambit of this Bill is more than adequate, particularly to meet the needs as Parliament originally saw them when the Children's Commission was put in place, and that was to meet the needs of those children who are particularly disadvantaged and vulnerable.

The member for Gladstone expressed a concern that the Bill gives the commissioner the power to stop investigating a complaint if the commissioner is satisfied that it would not be in the best interests of a child or children to whom the complaint relates to continue the investigation, and she asked if we could give an example of where that might be appropriate. I assume that the member is referring to clause 56(1), which allows the commissioner to cease an investigation of a complaint if the commissioner is satisfied that it would not be in the best interests of a child or children to whom the complaint relates to continue the investigation.

I think I should clarify at this point that the commissioner would not be investigating suspected cases of child abuse or other complaints where a criminal offence has been committed against a child. That is an appropriate role for the police or the Department of Families, Youth and Community Care as necessary or relevant. Rather, the commissioner will be investigating complaints where a service provider, including Government service providers, has failed to provide services or has provided services in a way that is contrary to the rights, interests or wellbeing of a child.

As I am sure all honourable members will understand, investigations can be lengthy and sometimes traumatic experiences. In some cases, the children themselves may wish a matter to be dealt with more expeditiously, for example, through advocacy or mediation. It may also be the case that as an investigation continues, the evidence of a child complainant may not be reliable and the child may choose to withdraw the complaint. The service provider may wish to negotiate a solution which is agreeable to both the child and the service provider.

It may also be the case that the time taken to complete an investigation may defeat the purpose of the investigation. For example, if the service provider is shortly due to make a decision on a matter to which the complaint relates, it may be more appropriate for the commissioner to advocate on the child's behalf. I also wish to draw the attention of the member for Gladstone to clause 56(2), which ensures that the capacity of the commissioner to deal with such a complaint in another more appropriate way is in no way limited by clause 56(1).

Finally, I would like to make some comments on a broader topic that was touched on by the member for Indooroopilly. The member for Indooroopilly took the opportunity during his speech in the second-reading debate to bemoan what he called the growing hysteria about paedophilia. He went so far as to say that in his view this hysteria was discouraging men from becoming teachers and becoming involved in a range of areas that involved working or dealing with children. Paedophilia is a very serious issue in the community. The community has a right to be alarmed by some of the revelations and some of the court cases that are now in the public realm. Governments of any political persuasion have an obligation to take those complaints seriously, to act on them, and, in doing so, to act responsibly and with a great deal of rigour. If the member for Indooroopilly is right about hysteria, I suggest that he may well contemplate the role that he and his own colleagues played in this regard when they were in Government. I take this opportunity to remind the member for Indooroopilly of the report on paedophilia compiled by the previous Children's Commissioner, Mr Norm Alford.

As some members will know and others will not, that report was tabled in the Parliament on the day the previous Government faced a motion of no confidence. In my view, we can now see this report for what it was at the time—nothing more than a cynical political exercise. It was based on no research and no evidence. There was no factual basis for any of the claims, nor did it contain any recommendations of any substance. It was a document hurriedly cobbled together. In fact, two-thirds of the document consisted of photocopied articles, Hansard speeches and documents from other inquiries that had nothing to do with this document. They were simply put in there as padding to make it look like it had some substance. If it had just stopped at that document, then it may have not led to the hysteria that followed.

For those of us who can remember it, the report was accompanied by a series of what can only be described as extraordinary allegations and subsequently bizarre actions by people who were in paid employment in senior Public Service positions under the previous Government. Allegations were made by Mr Bob Bottom on radio and repeated throughout a week of extraordinary allegations that snuff movies had been made by Queensland police officers on the Brisbane River. There were extraordinary allegations that there had been police cover-ups, a failure by police over a period of time to provide documents and that various investigations into allegations of paedophilia had been aborted by the Queensland Police Service. There were also accusations that involved blackmail of Queensland politicians in relation to paedophilia.

The Children's Commission then refused to provide to the CJC any of the documents that might have substantiated such allegations. Instead, there were guards placed at the door of the Children's Commission and the documents were put in a truck. The truck drove around town until it arrived at the Speaker's office. The Speaker was asked to give the documents sanctuary. A week later, Mr Bottom was sacked from the employment of the previous Government and from two positions he was alleged to have held—one as researcher in the Children's Commission and one as a researcher in the Police Minister's office. It is extraordinary that such positions might be held at the same time—a ministerial

appointment in the Police Minister's office and a position in the allegedly independent Children's Commission office.

It was an unbelievable, extraordinary and bizarre time. In my view, it undermined allegations of police cover-ups made without any substance. It undermined the willingness of people to come forward to make complaints. As politicians we need to ensure that if there are cover-ups, they are exposed. However, before making such allegations we also need to ensure that they have some veracity. If they do not, then it undermines the confidence of people to come forward and make a complaint and it undermines their confidence that the law enforcement agencies of this State are capable and willing to investigate very difficult matters.

We might ask what role the former Attorney-General, the member for Indooroopilly, played in all of this. It may be that he played some backroom role to ensure that Mr Bob Bottom was removed from those two offices and thereby stopped from making further allegations in the public arena. But what constructive steps in the public arena did the then Minister make? What constructive steps did he take to reassure the people of Queensland that there was no need for hysteria, that children were not being disembowelled on the Brisbane River? I do not recall the member for Indooroopilly in his role as the first law officer of this State taking any opportunity to assure people that these allegations were being looked into.

The Kimmins inquiry established by the previous Government to look into the allegations makes very interesting reading. There were a number of allegations aired in the public arena. Those allegations were tested, not the substance of the allegations. I want to make it clear that it was not the role of the Kimmins inquiry to establish whether or not those allegations were or were not factual but to investigate whether there had been any official misconduct by the police in a failure to investigate them or to deliberately abort inquiries. I will give the House a couple of examples. One reference to the Kimmins inquiry was an allegation that in 1985 police investigations into the possible filming in Brisbane of a snuff movie by a group of alleged paedophiles were closed down improperly. Mr Kimmins reports and concludes—

"I can report that all allegations regarding either the alleged making or alleged existence of so-called snuff movies have been properly investigated and suggestions that such investigations have been aborted or interfered with in any way are baseless."

There was a further allegation that in 1985 police investigations into the possible importation into Queensland of Filipino boys for improper purposes were closed down improperly. Mr Kimmins concluded—

"There is no evidence at all to suggest that an investigation into the possible importation of Filipino boys was closed down prematurely."

There was also an allegation that copies of credit card vouchers evidencing a parliamentarian's visit to Brett's Boys was seized by police and surreptitiously copied or removed from police holdings in order to blackmail the parliamentarian concerned. Mr Kimmins concluded—

"There is no evidence that credit card receipts were seized by police officers from Brett's Boys, much less that such credit card receipts detailed visits by a parliamentarian."

Finally, there was an allegation that in the period 1976 to 1978 police investigations into the alleged paedophile activities of an individual were closed down improperly, an allegation that referred to the so-called Moggill network. Mr Kimmins had this to say—

"... in his public disclosures, Mr Bottom failed to make it clear that the matters were historical ... therefore reflecting adversely on the presently serving members of the QPS.

In fact the police investigation into 'The Moggill Network' some 20 years ago produced a total of 36 charges laid against two individuals involving 19 children. There were no convictions against these two individuals as the prosecution found it impossible to proceed, mainly because of an absence of corroboration.

Thus, to claim that the investigation of this group was aborted is simply ludicrous. Even the slightest bit of checking would have revealed that that allegation was a total nonsense."

In my view, the resources that went into establishing those facts beggars belief.

I will conclude my comments in this area by outlining some comments and remarks by Mr Kimmins contained in the conclusion of his report. First of all, he said—

"This all reminds me of the days of witch-burning. Some poor woman was accused by anyone at all of being a witch: she was then required to prove that she was not a witch and when, invariably, she was unable to do so, she was put to death."

He went on to say—

"... the public reporting of such allegations without prior investigation, places the efficacy of any subsequent investigation at risk."

He went on—

"Not only does the airing of untested accusations threaten the innocent, but it risks prejudicing the investigation and prosecution of the real offenders."

Finally, he concludes by saying—

"... it is in the community's interest that those who are in a position—directly or indirectly—to influence the public broadcasting of particular allegations should be vigilant to ensure that innocent people are not falsely condemned, and that investigations are driven by reasonable suspicion and not mere hysteria."

The member for Indooroopilly might like to contemplate the fact that he was a person who had a capacity to directly and indirectly influence the airing of those false allegations at a time that was incredibly politically convenient for him to do so.

I conclude my remarks by recognising that Bills of this magnitude do not come before the House without a great deal of work from many committed people. I first of all thank and recognise the work of the Children's Commission and, in particular, the Children's Commissioner, Ms Robin Sullivan, and the instructing officer, Kathy Mandla. I also recognise the work of people in the Department of Families, Youth and Community Care, particularly the Director-General, Ken Smith; the Cabinet legislation and liaison officer, Monique Dawson; and Jo Linde from the Office of Child Protection.

The Bills before the House were put together with a lot of consultation from people who will be affected by them. I particularly thank those who were involved in the screening working party: Mr James Priest representing Scouts Queensland; Melissa Anderson representing Guides Queensland and the Queensland Youth Alliance; Mrs Elizabeth Gilchrist of Guides Queensland; Ken Windsor from the Indoor Cricket Association; Paul Travis from the Athletics Association of Queensland and the Sports Federation of Queensland, a peak body of sporting organisations; Families, Youth and Community Care officers; and Children's Commission officers.

These Bills were also the subject of a legislative review led by Mr John Briton. I thank John Briton, Penny Gordon, Stephen Parker and Geoff Airo-Farulla who were part of that legislative review. I also thank that review's legislative group: Mrs Jane Andersen from the Abused Child Trust; Elizabeth Anderson from the Foster Parents Association of Queensland; Debra Doherty from Peakcare; Sally Goid; Gwen Murray; Professor Ian O'Connor; and Jan Owen. As I said at the outset, these Bills are important pieces of legislation. They warrant our careful attention. I believe that they significantly improve the legislative framework that oversees the operation of the Children's Commission. I commend the Bills to the House.
