



Speech by

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CRIMINAL CODE AMENDMENT BILL

Mr FELDMAN (Caboolture—CCAQ) (10.38 p.m.): It was with good intent that the member for Ipswich West introduced this Bill into the House back in 1999. It is no coincidence that this Bill was introduced by an old copper. My speech will continue in that vein, because what I heard from the Honourable the Attorney-General was spoken like a true solicitor. I used to listen to a lot of solicitors when I was presenting cases in court—some of them before Judge McGuire, God rest his soul. Judge McGuire was certainly an advocate for a change in the *doli incapax* rule. A solicitor's response to things such as this certainly provides a bit of credence to a lot of those nasty jokes that used to go around about solicitors.

I remember speaking to a prominent barrister who lived in one of the wealthier suburbs on the north side of Brisbane. I said that it must be pleasurable and good to be able to speak for and defend such people as the man he was defending in court. This barrister did not have any incidence of crime in his street. I always said that if I ever won Gold Lotto I would buy a couple of houses in the area where he lived. I believed that I knew a couple of families whom I could put in those houses who would certainly bring crime to his street. It would probably bring him back to a sense of reality. He might then understand the sorts of things that police have to deal with when they are out on the street.

When I look at this amending legislation I think of people who have been affected by the fact that juveniles were not brought to task over their actions or their inactions. I think of such people as poor Mr Te Kooti lying dead in the street at Ipswich. We must stand up for the victims of this world. We have to stand up, be strong and be counted. How many more Te Kootis are we going to see if offenders go free? The people of Queensland are not prepared to sit idly by and see people bludgeoned to death in their own streets before the Government will do something about the perpetrators of these offences.

In my early days as a junior constable at West End I can recall being involved in the arrest of a juvenile who later became a very serious offender. That person is still in jail. I refer to Garnett Allan Mickelo. He was a big, raw-boned juvenile—a very big lad. He had been arrested on numerous occasions for breaking, entering and stealing and for assaults, but he was always admonished and discharged—sometimes before Judge McGuire. This gentleman went on to beat an aged pensioner to death in New Farm. He was sentenced to life imprisonment, and he is still serving time at Woodford Prison. He committed serious assaults whilst he was in prison.

I could go on about other young fellows I came across in my time when I was in and out of plain clothes at the South Brisbane Area Office at Woolloongabba and at Woodridge. These young offenders are admonished and discharged. They are let off mainly because of this rule. The police have to prove that at the material time the offender knew that the offence he was committing was wrong.

I can remember working with Mick Condon, now a detective inspector at Logan. Mick and I had occasion to pick up five young juveniles who were involved in a breaking and entering at the Harrisfield preschool. No-one can tell me that juveniles of any age do not know that one should not break into schools; that one does not break open cages containing live birds, light up the birds with white fluid and watch them fly away, burning; that one does not cut the throat of a pet rabbit and leave it bleeding to death in the school; and that one does not break a calf's leg and drown the calf outside the school and leave all these things there to be found by the little kiddies as they arrive at preschool the next morning.

I can tell honourable members that the parents of those children felt that the children knew right from wrong. The parents took appropriate action with those juveniles.

What we are talking about is knowledge. What we are talking about is what these young children do and do not know. As has been said, with the education they receive these days, children cannot say that they do not know that these things are wrong.

I noted with a bit of interest the Alert Digest response to this Bill. It was almost an apology for the Columbine massacre. The digest included the following words—

"Arguments to the contrary may include the following: that children nowadays are increasingly exposed to images of violence through electronic media and this can in fact make it more difficult for them to distinguish acceptable from non-acceptable behaviour."

I was almost sick with contempt when I read that statement as an argument that children do not know right from wrong.

At Caboolture, I spent 11 years as the Adopt-a-Cop at the Morayfield State School. I spoke to many juveniles at the school. We all know that bullying is a big issue. "Bullying" is a nice little name for what is really criminal assault by juveniles. Part of my response as an Adopt-a-Cop at the school was making them read out in front of the class exactly what constituted assault and what was the punishment for an assault. That had the desired effect on a lot of people.

As the honourable member for Warwick said, one has to take into account the parentage of these children and where they are coming from. Unfortunately, as an Adopt-a-Cop I spent a lot of time sitting in the offices of the principal and the vice-principal while they interviewed the parents of these offenders. I certainly discovered why those children were growing up the way they were, because I spent more time trying to protect the principal and the vice-principal from the propensity of assaults from the parents. I certainly knew why the children turned out the way they did.

The parents could not say that their children did not know right from wrong, because they did. They chose to disregard right, and chose wrong instead. This is exactly what this amendment to section 29 of the Criminal Code seeks to achieve.

The member for Whitsunday spoke about his time as a child. I can remember growing up and being at school. The member for Nudgee spoke about school rules and how children know school rules. It is a bit difficult for children to say that they know school rules and what punishment is at school, and then suddenly come outside and decide that they do not know right from wrong in society.

I knew the school rule for fighting in the playground was six of the best. Right or wrong, it was six of the best. It did not matter whether one was the perpetrator or the victim. One might have simply been a participant, but the punishment was six of the best. If one took part in a fight, that was the punishment one received. I can speak from experience because I certainly received six, and they were the best.

With this legislation we are trying to convince members on the other side of this House that this is something that should be done. Those opposite should be listening to learned judges who have had to deal with juvenile offenders for many years. If I, as an old policeman, can help convince those opposite that this is a good Bill and a good way to address some of these concerns, I will be satisfied. These are not only the concerns of police officers, they are the concerns of members of society as well.

The escalating incidence of juvenile crime is one of the more tragic outcomes in our present day society. The suggestions as to the underlying causes of this problem are many and varied, and in most cases they are interconnected. We have spoken about family breakdown. This comes from a lack of parental guidance, supervision and discipline, which combines with peer group pressure leading, in turn, to substance abuse. This requires funding which, in many cases, is provided by crime.

The whole vicious cycle is perpetuated by political correctness and an obsession with the rights of the criminal over the rights of the victim. These so-called rights seem to come without corresponding responsibilities, and the current system makes it even more difficult for the police to obtain a conviction or to take any action which might provide some deterrent to continued criminal activity.

Under the Juvenile Justice Act, the first thing a police officer might be called on to do is to actually do nothing. That is where we are being led with respect to jurisdiction over juvenile crime. It is an almost indisputable fact that the age at which young people reach their mental maturity is decreasing markedly. There is, however, some doubt as to whether that is occurring on the other side of this House. It seems that the onset of mental maturity in members opposite is much later than the national average. I sometimes think that even if they live to 100 years of age, mental maturity is something which they may never attain.

This early maturity means that we now have much younger people who are very worldly-wise. I take that from what the member for Warwick said. They are very wise and indeed they are very street-wise. This Bill is in keeping with the trend towards this earlier maturity. In this day and age, it is sound

logic to require someone in the 10 to 14 year age group to prove that he or she did not know or realise the consequences of his or her actions before being entitled to immunity from conviction.

The current law requiring the prosecution to prove that the accused did realise those consequences almost guarantees impunity. It is a very dangerous situation where our youth, with the encouragement of do-gooders who are feverishly schooling them about their rights, are aware that they can thumb their noses at the legal system and get away with it. Therein lie most of our problems. Most of these children who have been through the court system and have been there many times know what a joke the system can be, and that is exactly the way they treat it.

Some of these street-wise 12 and 13 year olds who are being indoctrinated into the system are developing an absolute contempt for the law. Tragically, this basic education in flouting the law is the first step that many of them take in the downward spiral of becoming very hardened criminals, probably the hardened criminals I spoke about earlier.

These kids do deserve better. Many of them have already lost the protection of a happy and functional family environment. Society has a responsibility to assume part of that protective role by lessening their chances of drifting into a life of crime. The way to do that is to ensure that they develop respect for the laws of the land in their formative years. To allow them to be seduced into a world where those laws are ridiculed and held in contempt is to sentence them to a lifelong period of crime, incarceration and perhaps even death.

The other side of the equation is the need to provide increased protection for potential victims of juvenile crime. Under the current laws, young hoodlums are allowed to rampage around the streets and to threaten the elderly and the infirm. Some provisions of the Police Powers and Responsibilities Act address this problem as society wishes for the Government to come down harder on that sort of behaviour, but indeed a lot of those laws still have that effect. Many elderly people are denied the right to move about their suburbs at will for fear of attack or robbery at the hands of juvenile gangs. It is the ones who seem to be highlighted most often in the media who actually cause elderly people to lock themselves up while it is still light outside and reopen their homes when it becomes light again. Sometimes, they do not even do that when the light hits.

Some of these juvenile gangs believe that they are beyond the law and they revel in the situation where the police sometimes seem powerless to act. What sort of society shrinks away from its responsibility to ensure that its citizens, especially its elderly and infirm, are guaranteed the right to go about their business with the full protection of the law? These people have contributed to our society throughout their working life and should now be entitled to enjoy their golden years in peace and in safety. We, as legislators, at least owe them that. They should not have to live in fear and trepidation ensconced in their homes with windows and doors barred and bolted because some young hoodlum knows that until he is 15 years of age he can bash and rob with the full protection of the law—or so it seems.

Let us in this debate not forget the lot of the police. I can tell members from bitter experience that the role of the police officer attempting to deal with a case of juvenile crime is untenable. Policing is difficult enough in so many aspects; it is absolutely demoralising when the police officer does not have the support of the legal system.

Queensland has an outstanding Police Service. I mean that from my heart. We have outstanding police who serve in the most dire of circumstances operating with perhaps legislation and laws that are not quite up to scratch or up to speed with what is happening out there in our society at the moment. Queensland has a Police Service that I believe is the envy of every other State. Surely our police deserve the support of the laws of this State to allow them to uphold the order that they need to provide a safe and secure environment to all Queenslanders, as their motto says.

What this comes down to is whether youths in the 10 to 14 year age group know right from wrong. I strongly doubt that anyone in this Chamber genuinely believes that the vast majority of that age group does not know right from wrong. In the very rare case where a young offender is not aware of the consequences of his or her actions, it would not be overly onerous for the offender's legal representative to prove his client's naivety, and indeed this is exactly what the member for Warwick said. A solicitor or a barrister would not be worth his salt if he could not do that on behalf of his client who showed that his or her mental incapacity was such that he or she did not know the consequences of his or her actions. The protection for the offender is still there. The protection for the accused is still there. The only difference is that it is not a permanent refuge from justice.

This Bill can restore some balance and return some respect to the laws of this State. If a law is a bad law, it should be changed. Similarly, if a law is unworkable, as the current one is, it should surely be changed to make it a little more workable. To leave an impotent law in place is to invite people to flout it, and that is what we see happening today. We see that in our juveniles, we see that in our youths. We see that especially in those who have gone before the law, faced the law and come out with a pat on the head and being told that they are admonished and discharged and everything is fine at the end of the day when we know that it is not. This has a damaging effect not only in relation to that particular

law but the whole legal framework. If anyone breaks the law, they should be subject to the consequences of doing so. To allow them to break a law, any law, and to be unable to do anything about it ingrains contempt for the whole system. Impotent laws breed criminals. Impotent laws demonstrate contempt for law-abiding citizens by failing to provide protection for them against the illegal actions of others. The current doli incapax rule is an ingredient for just such an impotent law and it must be changed, as it will by the passage of this Bill.

Between myself and the member for Ipswich West we have more than 50 years' experience in policing. The role of policing juveniles is untenable. This law needs to be changed to allow juvenile offenders to face up to the consequences of their actions and for society to be able to deal with them in a manner that will perhaps bring about better rehabilitation and make them face up to exactly what they have done or what they have failed to do that has caused somebody to be inconvenienced at law—somebody hurt or property damaged, destroyed or stolen. As I said before, we do not want more Mr Te Kootis lying beaten up in our streets before something is done about this law.

Time expired.
