



Speech by
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MEMBER FOR INDOOROOPILLY

Hansard 3 October 2000

CHILD CARE AMENDMENT BILL

Mr BEANLAND (Indooroopilly—LP) (12.42 p.m.): The Child Care Amendment Bill amends the Child Care Act 1991, which provides for the licensing of child-care centres and family day care centres in this State. These amendments to the Act aim for a handful of minimum requirements to be put in place for independent home-based care, which is commonly known as backyard care. The minimum requirements they seek to put in place will in no way affect licensing matters because no licensing or registration will be required.

These amendments are very important, because the current legislation governs the standards and operations of child-care centres and family day care centres in Queensland. Currently the centres in this State have a very high reputation indeed. There are regular licence checks and other processes in place to ensure that they comply with the standards set not only by this Act but also by the regulations. A great deal of consultation is carried out and a lot of work by industry groups goes into ensuring that high standards are maintained. The Government itself has an important role to play, particularly in relation to licensing and the setting of standards.

While the Opposition supports these amendments in principle, we are concerned that they work only on the basis of complaints. That is, a complaint has to be lodged before the Government will take any action to examine a situation. No licensing or registration is being put in place and no regular checks will be carried out.

As the Minister is aware, the Opposition has concerns about the considerable effect of the Bill on rural and remote communities. I hope the Minister will be prepared to accept an amendment from the coalition in relation to the Bill's effect on those communities. I will say more about that amendment shortly.

Clearly there has been a lack of consultation in relation to this legislation. The model with which the Minister has chosen to proceed—several models are outlined in the Explanatory Notes—does not in fact set real standards, apart from a limitation on the number of children per carer in independent home-based care.

Rural and remote communities are ignored in the legislation and lumped in with south-east Queensland regional centres. There is no flexibility in the Bill. As I have already indicated in passing, there are problems in some parts of south-east Queensland. There is a ready supply of independent home-based care operators in this area, but there is no proactive checking. Rather, checks only follow complaints. I think in time this may prove to be a problem for the Government.

Included in the legislation is a provision enabling criminal history checks to be carried out but, again, we will not know whether they are carried out. It is fair to say that the Minister now has other legislation before the Parliament that will deal with this matter. Therefore, whatever is contained in this legislation is largely redundant because of the other legislation that will be forthcoming. Certainly criminal history checks will be covered by that piece of legislation.

Proposed amendments from the National/Liberal coalition seek to give the director-general—that is, the Government of the day—discretion to exclude independent home-based child-care centres in rural and remote Queensland from the restriction on numbers contained within the legislation.

I emphasise that in this regard we are purely talking about numbers, not other matters such as the need to have liability insurance, the need for criminal history checks and so on that might be covered.

The legislation proposes that a person must not care at any one time for more than six children of less than 12 years of age or more than four children of less than six years of age. The amendment foreshadowed by the Opposition gives the Government some flexibility on this particular issue. Secondly, it will enable the Government of the day to set standards by regulation. I have read through the legislation very carefully. I have not taken legal advice on this aspect, but it would seem to me that there is a problem for the Government in setting regulations under the current amendments to the Act. I would have thought that, at some stage in the future, the Government may have wanted to set some standards by regulation in a similar way to the way in which it sets standards for time to time in relation to child-care centres, family day care centres and so on.

The third thing I believe the legislation should contain would require a rewrite of the Bill itself. Independent home-based care is non-registered. We believe the word "non-registered" should be contained in the amendments and be used to describe the people who operate these centres in order to highlight that they are non-registered, home-based, independent centres. Currently there is no reference to the fact that they are non-registered, although the legislation goes to great lengths to point out that they cannot claim in advertisements that they are registered.

Because there is no reference to their being non-registered, people who operate these centres might be able to imply that they are because they are covered by Government legislation. Obviously, if something is covered by Government legislation there is a perception that some registration is involved and that some type of compliance check is carried out. I think that will prove somewhat of a problem in time to come, because no reference has been made to it. I am not proposing amendments in this regard. I did look at it, but a large number of amendments would need to be made. I would like the Minister to comment on that point. I am sure the Minister must have considered that aspect in framing the legislation. By allowing for a transitional period it is believed that the Government will overcome its main concerns and ensure that facilities exist in remote and regional areas of the State. I am not suggesting that rural and remote parts of Queensland should not have standards similar to those in south-east Queensland. However, circumstances often vary in different parts of Queensland.

We should not forget that in many of Queensland's rural and remote towns there is no option but to send children to where they are currently being sent. The passing of this legislation will not lead to additional facilities being established. Additional facilities may be established in the more populated parts of the State, but this will not occur in remote areas where there are not sufficient people to provide the necessary facilities.

Moreover, if an independent home-based child-care operator was not measuring up to acceptable standards in a country area the parents would soon take action because the word spreads very quickly in country centres. The word spreads very quickly if the centre is not up to scratch. The situation is entirely different from that which occurs in south-east Queensland and the more populated areas of the State.

The way the amendment is worded it gives maximum flexibility to the Government of the day. It may be a transitional provision or it may be introduced at some later stage where there is a pressing need in a country area. It may take only a short time to overcome a particular situation. However, the Government has the discretion to act as it sees fit at the time. This discretion particularly refers to rural and remote parts of the State. People in these areas should not have to endure inferior standards. However, this legislation does not provide standards which will be enforced by regular checks. The only compliance will be based on a complaints basis.

The one issue that is of concern is the number of children that a person may have in his or her care. I understand that there have been some problems in south-east Queensland in this area. I can understand how these problems arise. We have an abundance of child-care facilities and day care facilities in this part of the State. These facilities are either already established or can be established in the future. Many people are prepared to enter the marketplace and provide such facilities. However, this is not the case in remote and rural areas of the State. Other providers will not be available.

A cursory reading of the Bill raises a number of questions in relation to the care the Minister took with the Bill before it was presented to the Parliament. When I look at some of the statements the Minister made in her second-reading speech I find a number of slogans and some rhetoric which do not measure up. On reading the Minister's speech, one could believe that a full registration regime was to be set in place for the independent home-based care centres. However, that is not the situation.

The Bill provides some degree of protection for children. Firstly, it provides that an independent home-based provider must be 18 years of age or more. I have already referred to the limitations on the number of children involved. Under the legislation, providers must undergo criminal history checks. They must also have public liability insurance. The provider must not have a conviction for a disqualifying offence or reside with such a person. However, that really sums up the situation. The standards are not

significant in number. There is no reference to a range of other issues such as health, hygiene, minimum standards or holding an authority to obtain needed emergency or medical attention and this type of thing. There is no standard regarding the skills or personal qualities required of the carer. Such issues are not covered by this legislation.

From my reading of the legislation, the Government of the day would not be able to introduce legislation covering such issues because the Act needs to be further amended. I have proposed an amendment to that effect. As I said, the legislation's only requirement is that carers must be over 18 years of age, must have public liability insurance, must care for no more than six children under 12 years of age and that the household must not contain a person who has a criminal history. Checks will not be carried out on these matters.

I raised this issue with the Minister in an endeavour to discover how many complaints had been received in relation to these matters in recent years. I know that people can say that years ago a child was drowned in a backyard pool. People can point to a whole host of situations. I am interested in finding out how many complaints have been received by the Government in this area. I know that a person can hang out his shingle and get people in. In busy city areas people might not take the time to carry out the necessary checks required. I look forward to hearing from the Minister regarding the range of complaints that the Government has received.

This Bill distinguishes between the term "carer" which is defined in the Bill and the term "care provider" which is used elsewhere in the Act. Whilst the Government may insist that the current legislation would cover the regulation-making powers, I doubt that because the terminology is different under section 84 of the Act. I believe that section of the legislation will need to be amended in order to allow for regulations to be made for "carers". My second amendment clears up what may be a misunderstanding.

In the area of the Explanatory Notes which deals with the cost of this legislation to the Government, the Minister has indicated that the implementation of this Bill will be achieved within resources. I presume the Minister does not expect too many complaints to be made to the department in the future.

We all know that departmental officers are currently working under difficulties. They have been taking strike action from time to time in an endeavour to emphasise the pressure they suffer. This action has been occurring right across the State. People have complained to the Government about the lack of staffing and the lack of resources. It is fine for the Minister to say that current staffing allocations are sufficient, but complaints will lead to additional duties for staff. I am not being cynical. We are all aware of the current situation within the department. It is very important that, when legislation is put in place, sufficient resources are provided to implement the legislation. On page 4 of the Explanatory Notes we see the statement—

"Implementation of this Bill will be achieved within resources."

This raises a number of questions.

Departmental staff are very busy. All staff members are fully occupied. The duties associated with the implementation of this Bill will need to be carried out by a range of people. I am sure there will be a number of complaints about various issues, particularly in coastal and south-east Queensland.

Sitting suspended from 1 p.m. to 2.30 p.m.

Mr BEANLAND: Before the luncheon recess I indicated that, although the Minister's Explanatory Notes stated that the consequences of this Bill would not be a cost to Government, I did not believe that that would be the case. There would be some cost—unless the Minister was indicating that she expected very few complaints to flow from this particular legislation or unless, of course, as I was in the process of saying, the Minister was trying to indicate that the staff were not working fully in their current duties. I do not know whether or not the Minister was trying to indicate that there were some other duties that staff would discontinue in view of this particular Bill coming into operation or whether some other reason exists for indicating that no additional resources would be needed.

As I indicated before the recess, we have had very clear indications from the staff—and certainly from the strike action that has occurred within the department—that additional resources will be needed if there is to be any additional workload at all associated with the implementation of this Bill. That is unless, of course, the Minister intends to create more perceptions but then at the end of the day do very little to follow up. In a number of instances we have seen perceptions created but little follow-up is done and little benefit flows from a particular piece of legislation.

Apart from the fact that there is no provision for additional funding in the legislation, I have previously touched on the issue of consultation. I think that this is particularly important because we hear a great deal from the Government about it being out there consulting with rural and regional Queensland. If consultation did take place, I question in what form? I am aware of what the Explanatory Notes say: the Minister consulted with a number of peak groups such as the Child Care

Forum, Family Day Care, Queensland Professional Child Care Centres Associated, the Child Care Industry Association of Queensland, Local Government Association, Child Care National Association, Diversity of Child Care and Child Care Queensland.

However, it seems to me that there was no consultation with groups out in rural and remote Queensland because when I travelled out there and raised this issue I found that it is unknown to them. They are not aware of the situation at all. I will shortly quote some letters I received—and I know that the Minister received them—from people in places such as Gayndah and Longreach. I have also spoken to people in Charleville, Dalby and other centres and it has been indicated to me that there was no consultation whatsoever. This perhaps shows a little bit of the Government's true colours in relation to a matter that affects such a large area of the State. It affects all areas of the State. The situation is not the same in south-east Queensland as in other parts of the State. There is certainly a need to ensure that those in rural and remote parts of Queensland are not disfranchised by legislation such as this. For that reason it is particularly important to know exactly what has occurred by way of consultation with operators, particularly those out in the bush.

When in a moment I quote some of these letters that I have received I will have to sanitise parts of them to comply with parliamentary practice. Suffice to say that in a number of cases they are not impressed with the effect that this Bill will have on them and their special needs and circumstances. Country Queenslanders do not appreciate being totally ignored in a Clayton's consultation process; they certainly do not appreciate a threat to what services they currently receive. This legislation will mean a loss of some services in some areas. It may be, of course, that in time to come that will be overcome. We know that the Federal Government is spending a lot of money—in fact, \$240m—in a number of these areas to provide greater flexibility and choice in child care in rural, regional and remote parts of the State. I am sure that when some of that money flows through in a number of these areas changes will occur. Putting that aside, that does not mean that people from these areas do not see this as a threat to their services—they certainly do. They believe that a device could and should be found to ensure that they are not deprived of what child-care services they currently have. Rather than seeing this legislation as a big step forward, they see it as a big step backward.

I think it is fair to say that when we are talking about these centres we are not just talking about western Queensland, we are also talking about areas such as Cape York, which are also different from parts of south-east Queensland. Whilst I am sure that most of these centres will be able to comply with the regulations, there will be some that will not, as I have already indicated, through no fault of their own. Therefore, we need to ensure that we can cater for people in those areas so that they continue to receive the child-care services that they have been receiving.

From a standards and a child protection point of view, the legislation does not say a great deal at all. In fact, from a standards point of view, it says little or nothing. Another issue that has been raised with me by a number of people is, "What is the legislation really about?" Whilst one can go through the positive aspects of the legislation and the benefits that they might bring, there are a lot of cynics out there who do not believe in the premises of the Bill and the way it has been set up. The Bill provides that action will not be taken unless a complaint is lodged. Regular inspections will not be carried out. The Bill's critics say that, as it is a complaints-based operation, that is shutting the gate after the horse has bolted. This is very reactive legislation rather than proactive legislation—which is what many people would prefer to see.

I think it is fair to say that this Bill does not really make any improvements in advance to prevent something going horribly wrong. The Minister might contend that the possession of liability insurance is an advancement. I daresay most centres have liability insurance now.

The criminal history aspect will be picked up elsewhere, as I understand it, to ensure that that aspect will be enforced, because it is not being enforced in this legislation. The major problem is the numbers. That will be a problem in parts of Queensland, as I say, so it is little advance on the current situation.

I wish to spend a few moments looking at some of the problems people have presented to me. I will take one example. I am sure that the Minister has all of these letters tucked away. Hopefully, the Minister has read these letters very carefully and has given consideration to some of the problems that their authors are facing. I think it is only when we read through the letters that we appreciate the issues and the problems that these people will experience. I have one here from Gayndah. The letter states—

"I am writing to you with regard to the proposed changes to the current childcare act. My child presently receives the loving attention of a private day care mother."

It continues to state that the operator's—

"... abilities and the immense amount of time and effort she puts into caring for our children are nothing short of wonderful. I have known"—

the private carer—

"all of my life, and know that she is a unique person without whom I know I would not have been able to re-enter the workforce with any sense of peace. My child's love for her and his 'extended family' is testament to this, as is the ease with which—

the provider's—

"children integrate socially and academically when entering the more formal stages of their education. I request that you consider my situation as a sole parent and as a resident of a rural community and the impact these changes will have on my family and many others in our district and, no doubt, in the rest of rural Queensland.

In our small town, we do not have a childcare centre, the closest being over 100 kilometres away. This means that if the system is altered in the manner proposed, it is highly likely that I will have no choice but to attempt to seek a place with public daycare. There are several reasons I deeply resent having to do this. Firstly, I believe that, as a loving parent, I should have the right to choose who cares for my child while I'm at work. In Gayndah I will have no such choice. Secondly, the number of 'public' carers available in our town is already too few to cope with current demands—what hope have they of coping with the influx of children from private carers? Thirdly, as a nurse, my hours of work vary immensely, and I am often called in on short notice. The public daycare system is too rigid to meet my specific needs, so should I find another carer? In a town of this size, not an easy option. Finally, the person who presently cares for my son has done so since his birth. We have a relationship akin to an extended family. I do not wish to tell my four year old boy he can no longer go to—

the carer—

"because someone has decided she is not capable of caring for him and his friends.

Please consider also the plight of others within the community who share the excellent service offered by our private ... carer. Many of the families are shift or seasonal workers, something that is not adequately catered for by the public system. This lack of flexibility is partly due to over regulation of the industry and partly to lack of awareness, by the government, of the differing needs of rural communities. As well, the apparent suddenness of the government's decision to regulate private carers has left many of us without sufficient time to react to, or plan for, the proposed changes. This is causing extreme hardship for all concerned, both financial and emotional.

Should the private carers of our community be forced to reduce the number of children in their care, a considerable number of parents will be faced with the situation of having no reliable or regular carer for their children. This may well lead to parents having to stop work to care for their children (as in my own circumstances), or alternatively, relocating to a larger centre where childcare options are greater and more flexible. Of course, for those whose livelihood is centred on agriculture, even this is not an option. The drift from rural to urban regions is supposedly of concern to the state government and the proposed changes will do nothing to halt it.

The proposed changes will not only affect the economy of the town, but the quality of services available to people. This is due to the fact that a large number of the parents concerned work in the areas of health or education—many are teachers or nursing sisters. If they are forced to cease paid work in order to care for their children on a full-time basis, the town's pool of experienced, permanent professionals will be seriously depleted. Like myself, these highly qualified and experienced women feel they are more than able to decide whether or not their child is being properly cared for and certainly do not need to look to the government to do this for them.

I was personally offended by the tactless, and in our case, completely groundless implication that our private carer is offering sub-standard levels of care. At no point in time has myself, or anyone of my acquaintance, been approached on this or related matters, so why should we bear the brunt of these allegations? We take great offence at the suggestion that we have so little regard for our children we would leave them in an unhealthy and unsafe environment—as recently implied by both media and government. We demand the right to choose who will help us in the raising of our children."

I have a number of similar letters from people living in Gayndah. I would like to refer to another letter. The last one was from a nurse, and I think this one is from a teacher. It states—

"I am writing with regard to the proposed changes to the current childcare act. My children are presently cared for by a wonderful private day care mother. My husband is employed in the citrus industry and I am employed ... on strictly a casual 'on call' basis. Before the birth of our children, now aged 4 & 2, I was employed on a full time basis ... Due to our often struggling financial situation, I gained this casual employment as a means to supplement

our income. Therefore we needed a day care provider who would be able to accommodate my erratic work demands, someone I could ring at a moment's notice (as my employers ring me). We also needed someone who would love and care for our children and make them part of their family.

In Gayndah, our choices were

1. Family Day Care—which consists of approximately 4 approved carers to meet the needs of the whole of Gayndah, or
2. ... a private ... carer who cared for many of Gayndah's children over the years—a well known and loved lady.

Family Day Care's rigid inflexibility and, in my opinion ... was not for us. We have had our children in care—

at the private carer—

"for 3 years. Our children adore her. 'Mummy' going to work is not a sad occasion at our house, it's a chance to go—

to the private carer. The letter continues—

"She is not only our care provider, she is our friend, our adviser, our trusted confidant and part of our family.

If this legislation is passed, our choices, as a family, will be few—

1. If there was an available and suitable Family Day Care position (unlikely in Gayndah—currently a long waiting list) would she be able to accommodate our changing work days ... Sometimes I don't work for days. Under the government scheme, I would have to pay to keep my place. We cannot afford to do this, especially when I can never predict when I may be called in to work."

The letter states further—

- "2. A day care centre—in Gayndah—non existent! Maybe the government would consider building us one to fill the gap currently filled by the operators and others like her"—

that is, like her private operator—

"in Gayndah.

3. I will have to resign and hope we are eligible for some government assistance. Regardless, our family will be considerably worse off financially."

The letter continues, again referring to parents who are teachers and nurses.

I have not only received letters from people at Gayndah; I have also received letters from people in Longreach, who are in a similar situation. A letter that I received from a person at Longreach is along similar lines. It states—

"The following are some 'dot points' highlighting the difficulties and resulting consequences of the proposed amendments to legislation governing Child Care Services and Family Day Care.

The specific points raised are in relation to the Longreach community in which I work and reside.

1. Longreach is serviced by only one Day Care Centre and two Registered Day Care Mothers. These services are generally fully booked. The Longreach Day Care Centre closes for a period of three weeks over Christmas.
2. The Longreach Kindergarten has places for forty children and is currently fully utilised.
3. Private daycare arrangements make up the shortfall. These include"—

independent services—

"as reported in the media. Private daycare providers will, as a consequence of the planned legislative provisions, be required to reduce their enrolments ... leaving few options for the parents of those children in care. Many parents will be forced to consider splitting their family whilst in care or even excluding themselves from the workforce.

4. Current providers of private day care in Longreach will be forced to choose between their enrolled children which in a small community has considerable social implications. In preference to making this decision, these providers have indicated a desire to discontinue providing a service at all.

5. The implications of reducing the number of places which private providers can offer will seriously restrict the providers ability to earn sufficient income to make the service financially viable. As a result, many are considering mainstream employment outside the childcare industry.
6. Although the pending legislative changes will be equitably applied across the State, rural communities will be more greatly disadvantaged than those in metropolitan areas, due to a lack of choice, eg Longreach does not have a Nanny Service or a babysitting agency.
7. In many instances, employers have provided incentives for families to relocate to sparsely populated rural and isolated areas. As a result, those who choose to relocate leave behind extended families and established support networks, thus relying further on Child Care Services.
8. Some families prefer a home based service as opposed to institutionalised care.

The pending legislative changes will significantly disadvantage rural families, and further consultation will be greatly appreciated."

I have also had discussions with people at Dalby, Charleville and a number of other places around Queensland. The clear indication to me was that there are problems in those areas. I am sure that is the case in many other rural and remote areas. The amendments proposed by the Opposition do not allow for rural and remote communities to be suddenly excluded; they give discretion to the Government to look at individual circumstances. Where there are problems with numbers—and numbers only—those areas will be able to be excluded from the Act.

I have illustrated that there are some problems in this area and that this legislation needs to be reassessed in relation to these people. Both the Minister and I have had correspondence from a lady in Cairns, a Ms Dianne Payne, the operator of My Other Mum, who is also experiencing problems with respect to her operation. However, I think it is fair to say that her problems are vastly different from those facing people in rural and remote parts of Queensland. I know the Minister has received volumes of correspondence on this matter; I have copies of some of the letters and I understand there has been some media coverage of that issue in Cairns. I am not sure whether the Minister has had her officers look closely at this to see whether the issues can be overcome. I think these issues are different from those in rural and remote Queensland, and they are probably issues that this legislation is designed to pick up. It is difficult to say whether the situation there is somewhat different from that elsewhere, because I have not conducted a personal inspection of that facility in Cairns, whereas I have spoken with other people elsewhere and visited their facilities. A number of other States have legislation that varies from ours in many ways. I would still like to hear from the Minister about the number of complaints that have been or are expected to be received in respect of this legislation.

I wish to highlight a couple of further matters before I conclude my contribution on this Bill. The legislation will cause problems in some areas. Certainly, on the whole the legislation will be welcomed—certainly in south-east Queensland, anyway—because it will improve the situation. However, I am sure there will be some problems by virtue of the fact that some operators will remain unregistered and will try to imply that they are registered.

The Child Care Amendment Bill does not put in place legislation that is proactive. There will be no checks unless a complaint triggers an investigation. I am not sure how the Minister expects to get the word out. I expect that the Minister intends to promote this legislation widely and trust that the people operating these facilities will get to know about it. In some places there will be knowledge that there are centres such as this operating. There is a range of estimates of the number of centres that would come within the ambit of this legislation. No doubt many of the places are known to departmental officers. I am sure they have some type of list on which to operate. Nevertheless, the legislation operates on a complaints basis only. My question is: how does the Minister intend to get the message across to all of the people operating these businesses, in their view, legitimately, as to the requirements in this legislation relating to their operations?

The director-general and other staff members briefed me on this legislation, and I thank the Minister for that. It was greatly appreciated. In conclusion, I state that to date my big disappointment—and I am yet to hear the Government's response to my amendments—is that we will not be able to accommodate people in rural and remote areas, if indeed that is not encompassed within the legislation.
