



Speech by

Mrs LIZ CUNNINGHAM

MEMBER FOR GLADSTONE

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SEXUAL OFFENCES [PROTECTION OF CHILDREN] AMENDMENT BILL

Mrs LIZ CUNNINGHAM (Gladstone—Ind) (2.50 p.m.): In rising to speak to this bill, I want to comment on the last matter raised by the previous speaker, that is, the reaction to the release of a child molester into the community and the response by some in the community. I think it highlights right, wrong or indifferent the strengthening resolve the community has to fight child abuse and paedophilia.

The member for Ipswich outlined a couple of people who reacted inappropriately to the situation, but it does stand in stark contrast to the reaction 30 or 40 years ago, where any child who spoke up about being ill-treated by a friend, a relative or a stranger was at risk of being told by the person to whom they disclosed this information that their events did not occur, that they were telling lies or that they were just mischievous. Community attitudes, thankfully, have changed and grown over time.

I believe this bill will bring some comfort to a great number of people in the community because it addresses some of the issues that have been raised in relation to people who have been charged and subsequently found guilty of child molesting. This bill removes the application of section 9, where imprisonment is to be used as a last resort and a sentence that allowed an offender to stay in the community is preferable. In the case of child sex offences, that has been removed so that it is not a custodial sentence as a matter of last resort.

There is, however, a concern that I have regarding this bill which I would like to raise with the minister. I am not in the judiciary; that is obvious. Judges impose sentences and evaluate people who have been found guilty of child sex offences. However, clause 28 of the bill states—

In sentencing an offender to whom subsection (5) applies—

This is the custodial sentence as a matter of last resort—

the court must have regard primarily to the following ...

I assume they are in a descending order of priority. Thankfully and appropriately, the children are right on the top of the list: 'The effect of the offence on the child'. Sometimes children, particularly if the offence occurred close to the conviction, find it difficult to articulate the impact that that has over time.

Next comes the age of the child; the nature of the offence; the need to protect the child or children from the risk of an offender reoffending; the need to deter similar behaviour by other offenders to protect children; the prospects of rehabilitation; the offender's antecedents, age and character; the depth of remorse; medical, psychiatric, prison or relevant reports and anything about the safety of children under 16 that the court considers relevant. It is (g) and (h) about which I have concerns.

Firstly, the offender's antecedents, age and character. Child sex offenders are people who are right across the scale of income. Upstanding community citizens have been alleged and also found to be guilty of child sex offences. They have been people of good standing in the community and yet they have this tremendously dark side to their character. One would hope that in sentencing an offender there would not be—for want of a better way of putting it—credits given because the person was of good character when they had committed such a heinous act or acts.

The second issue I want to comment on is the degree of remorse demonstrated by the offender. I know that remorse can be quantified—that offenders can genuinely be sorry for what they have done—but I would hope that in coming to an assessment of remorse or lack thereof, particularly where remorse is demonstrated, that remorse is put in context in terms of whether it was demonstrated

before they were charged or after they were charged. Because it is quite possible for remorse, and a significant depth of remorse, to be demonstrated afterwards to try to ameliorate the custodial sentence of that offender. Whilst it may be difficult to assess genuine remorse from non-genuine remorse, that should not in any great measure reduce the sentence for that offender in terms of child sex offences.

I note that there has been an increase in the maximum sentence for child sex offences. For children between 12 and 16, the maximum sentence has been increased to 14 years, and for children under 12 it has been increased to 20 years. That increase is welcome.

Another change which this bill will bring into force is the mandatory conditions to apply as far as reporting obligations by child sex offenders. There were three categories of releases listed in the bill and/or explanatory notes regarding release orders for work and home detention. They are a continuing penalty, albeit with a bit more latitude than being incarcerated in a detention centre, and they carry with them reporting obligations.

I want to reiterate the concern which has been expressed to me in the community about parole orders, where reporting obligations will be included. I note that there has been a change in that a court may order a released prisoner to report to the police station. Previously it was if they were satisfied that a substantial risk existed, and that is being changed to 'if any risk exists'. The concern that has been expressed to me with which I share 100 per cent is that, if there is any risk and it is an identifiable risk of a perpetrator reoffending, they should not get parole.

Some years ago I had meetings with the parole board which explained to me the benefits of parole: how it can be used to bring about better behaviour in prison, to bring about a prisoner's enrolment in courses and in rehabilitation. But I say on behalf of my community that if there is any risk—that is the new condition—of a prisoner reoffending they should not get parole. They should serve the rest of their sentence where perhaps further work could be done in order to correct whatever it is that drives these people to hurt children.

The bill requires that a corrections board must, as soon as practicable after a prescribed prisoner is released, advise the Police Commissioner. I seek clarification from the minister why the board is not required to advise the commissioner before the prisoner is released. With modern technology and communication, surely it is possible that prior to a prisoner being released from custody the Commissioner of Police be advised that that release is about to take place, and any reporting obligations that attach to that prescribed prisoner can also be advised to the Police Commissioner.

The bill also introduces Internet offences. I read the briefing note from the library, and again I commend the library for the quality of the briefing notes that they provide members of parliament. It outlined the incident that predicated parts of this bill in terms of Internet offences, where police had identified a perpetrator, had actually set up a meeting but that perpetrator's case did not proceed because it was not an actual child in the case police developed. This bill addresses that issue.

I turn to Internet offences. It seems that, as much as we abhor child sex offences, as our technology increases so does the opportunity to abuse people. In the media we have heard of people who have put hidden cameras in private areas, whether it is in public toilet facilities or private facilities, and have got images from the recordings and have put them straight on to the web. Those sorts of invasions into people's privacy, whether they are children or not, are absolutely devastating for the person who has been aggrieved.

Internet offences are a new area, and it is gratifying that the minister has addressed them. It just seems that with new technology—I am not a troglodyte; I am not against technology—we are opening up new ways for our children to be abused. It is essential that those of us in decision-making roles, as parliamentarians and others, also keep abreast of ways of containing the abuse and protecting our young people from the sorts of mongrels that trawl the Internet.

A constituent of mine had been on the Internet and had been sent a lot of spam. He rang me and said that it was filth. I asked a few questions about whether there was any chance he had accidentally gone to the web site or somebody else who had used the computer had gone to the web site and inadvertently made themselves vulnerable to this sort of material. He said that was not the case. He brought the material in and I have sent it off to the appropriate authorities. It was actually advertising access to girls in their early teens. It was blatant. There was no attempt to cover up what was being proposed. It made my constituent, thankfully, sick to the stomach.

One wonders what our children are exposed to in their time on the Internet. It is easy to say that parents should protect kids—we should; we should have the guards on and the firewalls up—but the fact is that we cannot stand behind them 24 hours a day. As they grow up, into their early teens and mid-teens, they are more and more independent. This legislation goes some way to protecting our children from these mongrels, but we have to be constantly vigilant.

It is always argued that, as an adult society, we should be allowed to have freedom of choice in terms of what we see on TV, at the movies and so on. More and more, the evidence is building that what we are exposed to as adults can influence what we do as adults and, more so, that what children

see and are exposed to as they develop their values influences their actions as they grow into adulthood. Over time we may have to be prepared to lose some of our so-called freedoms—to see the sort of filth that exists in some of the videos—in order to ensure that there is a greater measure of protection for kids.

The proposed changes to the court process and the discussions that are currently proceeding are welcome. We currently have a court system such that in many instances where there are child sex offences the child is doubly traumatised. They are required to give evidence sometimes in open court, if the perpetrator's solicitor is clever enough not to get any constraints on the giving of evidence. Those children are damaged and injured again in their search for justice.

I commend the minister for the investigation into court processes. Many child psychologists in the south-east corner and elsewhere would be prepared and very willing to talk in generic terms about the cases they have had to counsel not only as a result of the trauma of the attack or sexual molestation but also as a result of the trauma generated during the court case. Any added protection we can give our children in this area is welcome.

I commend the minister for introducing this bill. I trust that, if nothing else, we can save at least one of our children—I hope more—from the devastation of child sexual offences. More so, I believe that the new legislation will give greater protection to our kids and, perhaps in small measure, some food for thought for those who might be contemplating becoming a perpetrator.