



Speech by

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CRIMINAL CODE (CHILD PORNOGRAPHY AND ABUSE) AMENDMENT BILL

Dr FLEGG (Moggill—Lib) (3.27 pm): I rise to speak to the Criminal Code (Child Pornography and Abuse) Amendment Bill 2004. Any measures aimed at curbing the abhorrent exploitation of children with regard to child pornography are welcomed. The Liberal Party will be supporting the bill and believes that tighter restrictions and stronger penalties relating to the sale, production, distribution and possession of child pornography material are essential in the fight to curtail this sort of child exploitation.

The bill addresses the need to respond to the expanding incidence of the making, possession and distribution of child pornography even within our state of Queensland. Current legislation with regard to offences relating to the sale and possession of child pornography are part of the Classification of Computer Games and Images Act 1995, the Classification of Publications Act 1991 and the Classification of Films Act 1991, which are part of a Commonwealth-state-territory scheme for the classification of films, publications and computer games and for the enforcement of these classifications.

The bill before the House will bring in the following stronger sentences for child pornography criminals: a maximum of 10 years imprisonment for the distribution of child exploitation material; a maximum of 10 years imprisonment for involving a child in the making of child exploitation material; and a maximum of five years imprisonment for knowingly being in possession of child exploitation material.

For this piece of legislation a child is classified as a person under the age of 16. This was confirmed by the Attorney-General on 3 March. The definition is vitally important and has been a point of uncertainty in the past. These new sections to be inserted into the legislation are in addition to the existing penalties under the Criminal Code. In section 210(1)(f) of the Criminal Code—taking an indecent photograph of a child under the age of 16—there already exists a maximum penalty of 20 years imprisonment. An offender can commit an offence under that existing provision and receive a maximum penalty of 20 years imprisonment and can also commit an offence under proposed new section 228B and receive a 10-year sentence.

In regard to the connection between child pornography offenders and paedophilia, there is limited information on the link between persons viewing child pornography and those persons who, at a later stage, become a sex offender against minors. Clearly this is not an easy area for objective study, but there exists a need for greater investigation. The patterns of behaviour of lookers and offenders are very similar. The *Sydney Morning Herald* carried a very interesting article called 'The bid to treat child porn viewers before they offend' by Adele Horin on 6 April 2002. This article quotes a clinical psychologist with the Sexual Offenders Treatment and Assessment Program at the Royal Adelaide Hospital. Mr Shawn Sowerbutts learnt that voyeurs were indeed similar to child abusers. He stated—

They (child pornography viewers) were sexually attracted to children; they had sexual thoughts about them just as hands on offenders do. Some deliberately put themselves near children in sexually stimulating environments—

such as children swimming—

... such as showers at school camps. Some had engaged in sexual conversations, through chat rooms, with people they believed were children, and had frequently tried to contact them.

One could say there may be a direct link with the recent incident at South Bank, where secret photographs were taken of children without parental consent for the purpose of displaying them on the internet with various unsavoury connections to other internet sites. The recent incident at South Bank highlighted this issue in the minds of people who live in Brisbane and, of course, the hole in police powers to apprehend those people committing what I call offensive behaviour.

The courts and police can determine what is offensive, but clearly offensive behaviour is what offends decent community standards. Taking photographs is not, and should not, be an offence per se, but a photographer taking thousands of photographs of young children at unguarded moments—photographing secretly with a hidden camera to avoid parental objection—for the purpose of publishing on the internet is a whole different ball game. Clearly, that offends decent community standards. It is offensive, it is intrusive and it should be made illegal.

There is a loophole in the present law where the police have not been given powers to act in these circumstances. Voyeurism against children is not an innocent activity done by harmless people. It is a part of exploitation. I recently had the privilege of chairing a mental health forum on behalf of some of the Rotary clubs in Brisbane. A keynote speaker there was Professor Graham Martin, who is a professor of psychiatry at the University of Queensland. Professor Martin is a specialist in suicide and mental illness, naturally, as a professor of psychiatry. He gave what I can only describe as a sobering or perhaps even harrowing account of the extent of sexual abuse of children and the extent to which sexual abuse of children in our society affects mental illness in the adult population. He described sexual abuse as 'widespread' and 'one of the factors, if not the major contributing factor, to serious mental illness in adults'. This is unfortunately something that occurs and occurs all too frequently. Its consequences are devastating and are often perpetuated throughout the entire life of the child. The degree to which sexual abuse influences severe mental illness in our society, including things such as depression, suicide, social phobia and a whole raft of other things, is widely underestimated.

I think that Professor Martin, who gives a lot of his own time to do this type of unpaid community education, is keen that people should understand the seriousness of the consequences that flow from the sexual exploitation of children. One phrase that he used is very, very relevant to this debate. It disturbed me, but I think it is so important that I will repeat it. In relation to the sexual abuse of children, Professor Martin said, 'One of the goals that we should have is to teach men to control their urges.' I could not think of a more relevant quote in the present debate on child pornography. This is a very serious and widespread problem in our community.

The making of child pornography by means of procuring and luring children into pornography is a most despicable crime—a crime that is driven by power over one's victims. Children do not fully understand or comprehend what is being done. The offenders are able to manipulate the minds of children to think that it is normal or acceptable behaviour in some way or to make the children think that they themselves have done something wrong; in other words, to make the victim think that they are somehow to blame. This intrusion into the minds of children in their formative years is one of the reasons that this abhorrent offence has such a devastating effect on the mental wellness of the victims as they grow older. Children are easily frightened into not telling anybody. It is common to threaten children's parents with harm if the children speak out or to make the children feel so guilty that they do not want to speak out.

A person who distributes child pornography is just as much a child abuser as those who produce the material. They contribute to the creation of a market for these images that drives further production. It treats children like a commodity. It is linked to children being violated for internet movies and it creates a market where children, in certain circumstances, are sold into prostitution. Children are vulnerable. They are trusting. They deserve the heaviest protection our society can afford to give them.

Persons in possession of child pornography give every excuse in the world when they get caught with this material, including that they were just looking at pictures, they were not hurting anybody or they would never sexually abuse a real child. Those quotes came from the *Sydney Morning Herald* article I referred to earlier. But the evidence is not clear that the viewers of child pornography do not go on to offend. The end user who is flashing his credit card on the internet is creating the market that is driving this exploitation and commoditisation of children in different parts of the world. There is a belief by some offenders that this is a victimless crime. We need to be reminded that a child has to be abused to create the images, and where there is a market there will be ongoing creation of product to supply that market.

As I said earlier, the Liberal Party is supporting this bill. I suspect that in some areas it perhaps does not go far enough. The most insidious feature of the internet in relation to offences of this nature is anonymity. We welcome this bill, but there is an issue relating to general internet pornography. I do not wish to speak about general internet pornography because that is an issue for another day. I probably do not need to tell too many people how widespread that has become. There is very little, in fact nothing, that really stops children viewing the sort of pornography that occurs on the internet.

There is a lot of evidence around that very significant numbers or proportions of children in our society are exposed to pornographic images through the net at quite young ages. I believe that there is a

need for harsher laws relating to children's access to pornography on the internet, because this in itself is a form of sexual abuse of children. Those who publish these sites, those who produce material for it and even internet service providers who allow access by children to these sites, need to take responsibility. It is not good enough for them to say, 'Well, we are only the internet service provider,' or 'We are only a web publishing company.' Anyone who handles pornographic material that ends up in the hands of children needs to take responsibility. There needs to be laws in place that can be applied against people who allow internet pornography to be viewed by children. It is quite false to think that the viewing of pornography by boys is harmless. It is anything but harmless. Filtering of inappropriate material, where it may fall into the hands of children, should be a responsibility of internet service providers. I hope the tighter control of unacceptable content will be addressed in the future.

I note that encryption of the content of child pornography web sites to allow only restricted access is currently being used to try and avoid detection. I also note that there are web sites that publish manuals on how to ensure that when you visit internet child pornography sites there is nothing remaining on your hard drive. Police have to infiltrate chat rooms and act as children in order to catch offenders. This is unpleasant work, but it is essential work and I think we should take our hats off to the members of the police force who have to do this dirty work in order to protect children in our society. It is a timely reminder of some of the things that we have to do in order to protect children. It also demonstrates the lengths to which child pornography criminals can go and are going to avoid detection and to continue publishing their material.

To help the police a co-regulatory scheme exists for sexual content on the internet called the online consent co-regulatory scheme, which is managed by the Australian Broadcasting Authority. Complaints are made to the scheme and the appropriate filtering measures are implemented. A limiting factor is that it only covers material on the World Wide Web and does not cover ordinary emails or real-time services such as chat lines. Page 9 of the Queensland Parliamentary Library research brief gives some detail about this.

The International Labour Organisation Convention 182 calls for the elimination of the worst forms of child labour, including the use, procuring or offering of a child under 18 years for prostitution, the production of pornography or pornographic references. There has been recent success by authorities in trying to control this expanding crime. The Wonderland Club was a worldwide internet child pornography ring which abused 1,236 children before it was disbanded. In Australia, Operation Auxin arrested 200 people across the country with hundreds more arrests to follow. With Operation Auxin offenders were found and convicted because of the use of their credit card to download the child pornography images.

In conclusion, I reinforce that we are supporting this bill and I would like to end with a few observations. Offenders who are involved in the making of, distribution of or possession of child pornography have the following profile: they tend to be male and aged between 25 and 50 years. Men charged through Operation Auxin included people such as teachers, police officers, businessmen, clergy and, unfortunately, even doctors. They were often fathers who to the outside world lived normal lives, had normal or even successful careers and, interestingly, largely had no previous convictions. They were across all types of communities and they crossed all socioeconomic barriers.

The exploitation of children is one of the most horrendous types of crime. It is a crime against people who cannot defend themselves. It manipulates and damages the developing mind of children. I am very pleased to support the government's legislation in taking one more step towards stamping this behaviour out.