



Speech by

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CRIMINAL CODE (CHILD PORNOGRAPHY AND ABUSE) AMENDMENT BILL

Dr LESLEY CLARK (Barron River—ALP) (12.15 pm): It is with pleasure that I rise to support the Criminal Code (Child Pornography and Abuse) Amendment Bill 2004, which delivers on Queensland's commitment to join with other states in providing uniform laws to combat this abhorrent area of behaviour.

The escalation of child pornography on the internet is emphasised by the fact that law enforcement agencies seized around 12,000 child pornography items between 1989 and 1994, whereas the recent Operation Auxin uncovered approximately two million pornographic images involving children when police carried out raids across the country in 2004 and arrested some 200 people for pornography offences. It is interesting to note that the profile of those alleged offenders caught by that operation clearly shows that collectors of child pornography and paedophiles are not the crime novel stereotypes. The men charged included teachers, police officers, businessmen, church ministers and doctors. Many were fathers with normal lives, careers and no previous convictions. I think this is what disturbs so many people in the community about this kind of offence; it really is the case that abusers and users of child pornography could be anywhere in our community and we just do not know where they are.

The use of sophisticated technology for child pornography poses considerable challenges to law enforcement bodies, challenges that Queensland is recognising. Software exists to allow for the concealment and encryption of content so that only authorised, authenticated persons are able to decrypt the data and view the image that has been encrypted and transmitted online. Those sending images and other content in this way can also retain anonymity through using a remail service, which intakes messages, removes the address and gives it an anonymous identification code number with a remail or service address and then sends it on to its final recipient. Replies can be sent in the same way to preserve the anonymity of the responder. The online activities of the international Wonderland Club were protected in this way. Access to the group was password protected and the content was encrypted. In addition, the offender may be physically located in another country, which makes prosecution more difficult unless the law enforcement bodies are prepared to cooperate at an international level, as indeed they are.

In terms of detection, there has been progress made in strengthening mechanisms for information sharing and coordination between law enforcement agencies around the world. For example, a law enforcement agency which identifies a person's email address in another country as one which is sending child pornography can inform their counterpart in that other country. Law enforcement officers from the United Kingdom, Canada, the FBI and the Australian Federal Police are joining forces to form the Virtual Global Task Force. Australia's involvement in this task force is under the control of the AFP's High Tech Crime Centre. It enables police to have a virtual presence online, particularly in domains where child pornographers and paedophiles operate. For example, police are successfully infiltrating internet chat rooms and acting as children to catch paedophiles who are seeking out children for grooming for eventual contact. The police, as part of the task force operation, will patrol the chat rooms most popular with children and talk to some of the children online, much as they would in school.

It is surveillance of this kind which will hopefully destroy the myth that the internet provides an anonymous and safe playground for this abhorrent behaviour. I turn to the situation in Queensland. In 2001 the Queensland Police Service formed the Sex Crimes and Investigation Unit, combining the Child Sexual Assault Investigation Unit and Task Force Argos. The unit investigates child abuse, serial sex offences and offenders, organised paedophilia, institutionalised abuse, child exploitation and the use of the internet in exchanging child pornography. During 2003-04 around 100 offenders were arrested by Task Force Argos on more than 2,300 charges.

In September last year, the Queensland Police Service launched a new education campaign targeting parents whose children use the internet to ensure that parents realise the dangers of paedophiles attempting to groom children in internet chat rooms et cetera in order to win their trust for eventual contact and sexual abuse. The initiative includes a booklet entitled *Who's chatting to your kids?*, which sets out the warning signs that parents should look for and provides tips about what parents can do if they believe that their children have been contacted by a paedophile or anyone in the household has been sent child pornography. It also advises installing filtering software and monitoring children's emails. I sent information about that particular program to all of my Neighbourhood Watch groups and I am really pleased to see that some have included that in their newsletters.

In November last year, Australian police ministers agreed to uniform laws against child pornography, including tough minimum prison terms based on the New South Wales legislation, making a person in possession of child pornography liable to a term of five years imprisonment. A standard term of 10 years jail will apply for using a child for producing pornography. The legislation we are debating today is, as I said at the outset, delivering on the Queensland commitment to uniform laws by amending our Criminal Code.

I will outline the amendments, because I wish to convey this information to the people in my electorate through this presentation. It is proposed that we have a new section 228A in the Criminal Code. It creates an offence of involving a child under 18 in making child exploitation material. The maximum penalty will be 10 years imprisonment, up from five years where a child is used in a publication and up from three years where a child is used in a photograph, film or computer game or image. Where it can be established that an offender has actually abused a child in making the material then a substantive offence such as rape or indecent dealing will be the appropriate charge.

Proposed new section 228B creates an offence of making child exploitation material, with a maximum penalty of 10 years imprisonment. Again, this represents a substantial increase on the current penalty of five years for making a child pornography film or computer game and of three years for making a child pornography publication.

Proposed new section 228C creates an offence of distributing child exploitation material, with a maximum penalty of 10 years imprisonment. Again, this represents a substantial increase in the penalties applying to the current offences of selling child pornography publications, photographs or films—the penalty is currently two years—and selling an objectionable computer game, for which the penalty is currently only six months.

Proposed new section 228D creates an offence of knowingly possessing child exploitation material. The maximum penalty here is five years, up from one year for possession of child pornography publications and photographs—although it is two years if its possession is for the purpose of publication—one year for the possession of films and two years for the possession of computer games and images. I fully support the distinction being made between possession and the other more serious offences.

As has been referred to in the House, there are a number of defences for these four new offences as set out in those proposed new sections. It is a defence to prove that the person charged engaged in the conduct alleged to constitute the offence for general artistic, educational, legal, medical, scientific or public benefit purposes and the person's conduct was, in the circumstances, reasonable for that purpose. We have already heard in the House that the amendment being proposed by the National Party to delete that defence of artistic use could really lead us into some very absurd situations. Unlike the member for Tablelands, I do not think artists are actually the 'looney Left', or whatever term it was she used to refer to them. I think that is a very genuine defence. I certainly have confidence in it being used appropriately, as with the other defences. It is with great pleasure that I support the legislation before the House.