



Speech by

Liz Cunningham

MEMBER FOR GLADSTONE

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CRIMINAL CODE (DOUBLE JEOPARDY) AMENDMENT BILL

Mrs CUNNINGHAM (Gladstone—Ind) (9.46 pm): I rise to speak in support of the Criminal Code (Double Jeopardy) Amendment Bill 2007 and acknowledge the work that the member for Nicklin has put into the preparation of this legislation. I cannot think of anything more gut wrenching for a family than the experience of the Kennedy family. To have a small baby—17 months old—murdered in the way in which she was and thrown away like so much refuse on to the top of a toilet block is in itself trauma enough for any family to have to even commence to try to cope with. I think to then have the perpetrator acquitted after a trial, then found to have committed perjury and still not able to be made to answer for his crimes would be enough to send most parents over the edge; I really do.

On top of that—and I only know this anecdotally—it is my understanding that the perpetrator, and I am not going to use the word ‘alleged’ perpetrator, would taunt the Kennedy family, particularly Mrs Kennedy, at her place of work. How verbal that taunting was is something that I possibly cannot comment on but I can remember reading articles about the anguish that this family went through because of what they had had to put up with.

Because this legislation is not retrospective, it will not be an answer for the Kennedy family. It will not give them an opportunity to have closure in respect of having the mongrel who did so much harm to their family and treated their daughter with such disdain and disrespect being sentenced. However, Mrs Kennedy can hold her head high in the knowledge that her persistence on this matter has meant that not only in Queensland but also in other states the situation has been addressed. The incident with Deidre occurred in 1973. So the Kennedys have worked for a long time. Whenever her story was told it was poignant and you could not help being affected by it.

As I said, this bill will not address all of the issues of trials where family members of victims feel that they have not received justice. It is not retrospective and the member for Nicklin has constrained the application of the double jeopardy rule to a very specific area, that is, the 25-year offence.

According to the explanatory notes to the bill, life offences include serious riot offences, piracy, serious sexual offences including rape, maintaining an unlawful sexual relationship, incest, sodomy, unlawful carnal knowledge, murder, attempted murder and manslaughter, serious offences relating to inflicting grievous bodily harm and disabling to commit offences, endangering the safety of railways and aircraft, robbery, burglary and arson. Offences punishable by 25 years include sabotage and the most serious drug offences relating to drugs in schedule 1 of the Drugs Misuse Act 1987.

While I acknowledge that there are some other constraints in relation to the definition of ‘acquittals’ et cetera contained in the bill, the list of 25-year offences contains very serious offences. They are all offences that have the potential to re-traumatise the victims over a period and on a repetitive basis. When a victim is in such a situation, memories are brought back to haunt them. Therefore, I think it is appropriate that, if there have to be constraints, those constraints are not so tight that they exclude such intrusive and unacceptable—I cannot think of a superlative that is suitable—behaviour.

The bill rightly gives protection or balance between the principles that the guilty should be convicted and that acquitted persons should not live the rest of their lives under the threat of retrial. That has been

balanced with the fact that when a person has, because of a tainted finding or a tainted trial, been unable to answer for the serious offences that they have committed, they should be brought to justice and they should be made to answer for their actions.

I welcome the legislation that has been introduced by the member for Nicklin. My only regret is that people such as the Kennedys will still have to carry a burden that is greater than frustration; the burden of grief. However, for future situations where the perpetrator has, through a varying array of incidents, been able to get away with answering for their crimes, and with the new forensic processes that are available to us, it can only be hoped that this bill will bring relief to some families who have been hurt in the most atrocious way. I support the bill.