




Speech By
Rob Molhoek

MEMBER FOR SOUTHPORT

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CRIMINAL LAW AMENDMENT BILL

 **Mr MOLHOEK** (Southport—LNP) (4.15 pm): I rise to speak in respect of the Criminal Law Amendment Bill 2016. I note at the commencement of my address that the LNP does not oppose the changes in the bill. We note that there are a number of criminal law amendments that emanate from a previous LNP bill in 2014 that lapsed when the parliament was dissolved. We have also previously given in-principle support for the removal of the so-called gay panic defence in 2015 and we also recognise that there are many members of the LGBTI community who are concerned about legal precedents that have been applied in the use of section 304 of the Criminal Code for unwelcome sexual advances from someone of the same sex and we are happy to alleviate those concerns.

It is important that any legal changes made in this regard have no unintended consequences on community safety, particularly for young women defending themselves from unwanted sexual advances. It seems to me that in discussing this legislation there is one very important principle that has been addressed by all of the speakers prior to me and it certainly comes through from the committee report and that is the need for no discrimination. I wholeheartedly support that principle. I am concerned that over the years there has been a lot of new language that has been introduced to water down the tone or the allegation of a particular offence.

A few months ago I was privileged to sit with some of the senior officers from the Gold Coast policing region, particularly from the Southport domestic violence support group. They talked about some of the successes that they are having in terms of dealing with perpetrators of domestic violence. They spoke about the significant change of attitude and approach by police services in how crime is referred to. For some reason over the years if we call an assault against a family member, whether it be male or female or the kids, domestic violence somehow that is okay, but it is, in fact, assault. As police from the Gold Coast police region have started to deal with it and refer to it more directly for what it is—assault—they have found that there has been greater success in actually getting the message across in talking with perpetrators, in talking with families and dealing with prosecutions through the domestic violence court.

Many years ago the board of Bravehearts identified the same issue. I have mentioned previously that for many years I have been on the board of Bravehearts. The term child abuse almost makes it sound like it is some trivial offence when child abuse, particularly child sexual abuse, is, in fact, rape and it is, in fact, assault. Therefore, I am pleased that today we are here in the House dealing with what has been openly described as discrimination. We need to call it what it is.

I turn to some of the concerns that the LNP government raised. Earlier we heard from the shadow Attorney-General about the many reforms that the LNP government brought in to a range of laws and practices in Queensland during our short time in government. We were very serious about addressing the issues of serious crime. We took very seriously the concerns that were being raised by child safety advocates around the need to lock up repeat offenders in cases of child sexual abuse, that is, paedophiles. I believe that, as a government, we very strongly said that crime is crime, rape is rape, child abuse is assault and child sexual abuse is rape. Therefore, I am pleased that today we are dealing

with an anomaly in the law. We are dealing with a very common-sense issue that is really about ensuring there is no discrimination. That is why today I am comfortable to stand and speak in support of these changes. Regardless of your views, your race, religion or ethnicity, your sexual preferences, your culture, your gender or your nation of origin, some things do not change. As I mentioned earlier, this morning we heard at length from the shadow Attorney-General about some significant changes. That is why today I am happy to rise to speak in general support of the changes that are being proposed by this legislation.

I draw the attention of the House to the Legal Affairs and Community Safety Committee report on this bill, which stated that the gay panic defence of provocation has been abolished in every other state or territory except for Queensland and South Australia. I look forward to this opportunity to bring our state into line with almost every other state and territory in the nation.

I was disturbed to read information supplied by Mr Steven Page, who presented some poignant statistics: the most common form of assault was, not surprisingly, verbal abuse, which affected 73 per cent or 796 respondents in their lifetime; 510 respondents or 47 per cent experienced harassment, including spitting and offensive gestures; 452 respondents or 41 per cent experienced threats of physical violence in their lifetime; and 254 respondents or 23 per cent were subjected to physical attack or assault without a weapon, including being punched, kicked or beaten. All of those statistics are utterly unacceptable. While those statistics came from a survey of a few years ago, nonetheless I find it abhorrent that any person would experience such treatment in a modern society. As a result, it is little wonder that the subject of this bill has come before the House many times before this. Certainly it is time to address these matters.

In his submission to the committee, Mr Alistair Lawrie commented that—

Even if a small minority of people remain firmly intolerant of homosexuality, that does not mean there should be a 'special' law to reduce the culpability of such a person where they are confronted by an unwanted homosexual sexual advance. To retain such a provision is unjust and discriminatory, and is a mark against any legal system which aspires to fairness.

I agree with that statement made by Mr Lawrie. I firmly believe that discrimination of any type, be it based on sexuality, age, gender or any other matter, has no place in our laws. That is why I support this proposed legislation. For the most part, I am satisfied with the review conducted by the committee and believe that their recommendation has come in the best interests of equality principles and requires all people to be held to the same standard by the law.

However, a concern was raised by the ACL and the Queensland Law Society, and referenced in the committee report. The ACL stated—

Women experience higher levels of sexual harassment from heterosexual men than heterosexual men experience from homosexual men.

Consequently, the ACL is concerned that the proposed changes to section 304 would result in the legitimisation of unwanted sexual advances of a non-violent nature, which will have significant implications for women. In a letter to the committee, the department stated –

The amendment is deliberately framed in gender neutral language. That is, the partial defence cannot be based on an unwanted heterosexual or homosexual advance, other than in circumstances of an exceptional character. This is consistent with equality principles that require all people to be held to the same standard by the law.

Whilst I am a believer in equality, I am not satisfied with the range of unintended consequences that could arise from a lack of consideration of the removal of the partial defence of provocation, particularly in circumstances where the perpetrator was a victim of sexual abuse. The Queensland Law Society noted that—

If this amendment is made, it may have unintended consequences in some circumstances. Take for example where a person is propositioned for sexual intercourse, including a touching, against their will and this person has a background of having been sexually abused as a child or previously raped.

It is important that any legal changes made have little to no unintended consequences on community safety, particularly for young women defending themselves from unwanted sexual advances who must be taken seriously. I look forward to the proposed amendments to be moved by the member for Mansfield during further debate on this bill.