Speech By

Melissa McMahon

MEMBER FOR MACALISTER

Record of Proceedings, 8 September 2020

CRIMINAL CODE (CHILD SEXUAL OFFENCES REFORM) AND OTHER LEGISLATION AMENDMENT BILL

Mrs McMAHON (Macalister—ALP) (2.56 pm), continuing: In continuing from where we left off in the last sitting week, I refer to recommendation 21 that applies to retrospectivity and acts done and offences committed prior to 3 July 1989. The amendments also provide that, in relation to a charge of maintaining a sexual relationship with a child, particular sex acts are not specifically relied upon to prove the offence but rather evidence that establishes an unlawful relationship. It should be noted that I found submissions to the committee around the use of the word 'relationship' troublesome. It was felt that even the mere use of the word 'relationship' used in the context of these offences in establishing and using the term 'sexual relationship' may normalise or lend legitimacy to such behaviour. I note the department's response to consider appropriate wording.

Recommendation 26 of the royal commission recommended that jurisdictions extend their definition of 'grooming' to include persons other than a child if those actions are intended to gain access to a child for the purpose of facilitating sexual abuse. Clause 13 expands section 218B of the Criminal Code and is aimed at actions towards people who have care of a child under the age of 16, such as a parent, guardian or other adult in charge of a child. The establishment of a relationship with this adult must be accompanied by the intent to facilitate the procurement of the child to engage in a sexual act or expose a child to any indecent matter to enliven the charge. We have heard that single parents are often targeted by predators in order to gain access to a child. Let us consider not only the damage done to the child victim but the guilt that a parent lives with and the relationship that is forever impacted. Recommendation 30 of the *Criminal justice report* proposed the removal of any remaining limitation periods for historical child sexual abuse complaints, and clause 21 abolishes provisions which limited the period within which a prosecution could commence.

One of the more contentious amendments contained in this bill is the amendment to remove the protections of the confessional seal. This reform comes from the *Criminal justice report,* recommendations 33, 34 and 35. It recommended that each state and territory government introduce legislation to create a criminal offence of failure to report child sexual abuse in an institutional context which specifically addresses religious confession. I note that in comments made to the royal commission, Bishop Curtin explained that if a child revealed to a priest confessor that they had been abused, the child should be advised to report it to someone else, the priest confessor would not be free to act on this disclosure and the initiative must be taken by the child victim.

Anyone who has worked with victims of sexual abuse, particularly highly vulnerable victims, knows that it takes immeasurable courage in many instances to come forward and disclose such abuse. For that victim to have mustered up the courage to disclose this information to a person in whom they trust and seek comfort to then be told to go tell someone else is devastating. I do not care how understanding, compassionate or encouraging that priest confessor is; they have turned away a vulnerable victim seeking help and assistance. I cannot see how anyone who has a role in pastoral care of their community can see that as something worth protecting.

In his submission, Archbishop Coleridge used a quote which referred to this particular amendment as 'irreligious people trying to address a religious problem with brute secular force'. If we are going to talk in this House about brute force, perhaps we should be recounting the horror stories of actual brute force being used against children—actual brute force, not hyperbole or rhetoric—but no, we heard from some submitters that adults, regardless of their role in the community or the church, should not have to act to protect children as it impinged upon their religious freedoms, so I turned to the Human Rights Commission's submission and their consideration of the matter of religious freedoms. Its submission contends that—

The Commission is of the view that non-exemption of religious confession, while limiting the right to freedom of religion, is "demonstrably justified in a free and democratic society based on human dignity, equality and freedom" and therefore lawful pursuant to—

the Human Rights Act.

Recommendation 74 seeks to amend section 9 of the Penalties and Sentences Act to prohibit the reliance on character as a mitigating factor in sentencing for a child sexual abuse offence. This is applicable in instances where a person's good standing in the community has allowed them apparently unfettered access to a child victim. In these instances a defendant cannot rely on submissions of good character in sentencing considerations.

The last suite of changes I wish to speak to is in relation to the recommendations from the Queensland Sentencing Advisory Council's child exploitation material report. I note clause 11 of the bill inserts a new definition of child abuse objects that captures any doll, robot or other object which is representative of a child or part of a child under the age of 16. I note that it is immaterial that the object or doll has some adult-like anatomical features. The bill introduces two new offences relating to supplying or producing a child abuse object and possessing a child abuse object. These offences carry a maximum sentence of 14 years imprisonment. I commend the bill to the House.