Child Protection (Offenders Registration) Amendment Bill 2007

About this Item
Speakers - Kelly The Hon Tony; Gallacher The Hon Michael; Hale Ms Sylvia; Nile Reverend the Hon Fred; Cusack The Hon Catherine; Roozendaal The Hon Eric; Chair (The Hon Amanda Fazio)
Business - Bill, Division, Message, Second Reading, Third Reading, In Committee, Motion, Report Adopted

CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT BILL 2007

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Second Reading

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [2.06 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Child Protection (Offenders Registration) Amendment bill 2007 amends the Child Protection (Offenders Registration) Act 2000 to make further provision with respect to registration and reporting requirements for certain persons on the New South Wales Child Protection Register (the Register).

New South Wales was the first Australian State to introduce a mandatory system of registration for people who have committed child sex offences and/or other serious offences against children.

Since October 2001, registrable persons have been required to report their personal details to the New South Wales Police Force for a set number of years while they are living in the community.

I strongly support this system, which is legislatively underpinned by the Child Protection (Offenders Registration) Act 2000 (the Act). While one of the aims of the Register is to provide a deterrent to re-offending, it is important to recognise that the existence of the Register will not stop every person who has been convicted of a registrable offence from ever abusing another child.

However, the Register does provide police with a valuable tool to assist in their management and monitoring of registrable persons living in the community.

Registrable persons are required to tell police where they live, where they work, what car they drive any children they live with and more. They are also required to inform police in advance of their intended interstate or international travel arrangements.

As well as being held on the New South Wales Child Protection Register, information regarding registrable persons is uploaded to the Australian National Child Offenders Register (ANCOR).

This database, which is managed by CrimTrac, is used to assist police from other jurisdictions in monitoring child sex offenders.

The Child Protection (Offenders Registration) Amendment bill 2007 introduces improvements to New South Wales's child protection registration system including allowing police to take and retain DNA samples of registrable persons and increasing the maximum penalty for breaching reporting obligations from 2 years to 5 years.

The changes aim to provide police with the information they need when investigating and prosecuting child sex offences that may have been committed by recidivist offenders as well as in the police management and monitoring of child sex offenders in the community.

The recommended changes follow a period of extensive consultation and a review of the Act. In November 2005, the New South Wales Ombudsman's Review of the Register was tabled in Parliament. His review found that the implementation of the Act had been largely successful and that the Register has the capability to be a significant child protection tool.

The Ombudsman's review informed the statutory review of the Act.

I will now outline the provisions of the bill.

Registrable personsRegistrable persons

Registrable offences are listed in two separate categories under the Act. Class 1 includes the most serious offences such as child murder and sexual intercourse with a child.

Class 2 includes other offences such as acts of indecency against a child and possession of child pornography.

The bill makes only one change to the definition of registrable offences, which is to recognise the offence of sexual assault by forced self-manipulation, where the person against whom the offence is committed is a child, as a Class 1 offence.

The bill also tightens the circumstances in which adults are required to comply with the reporting obligations of the Act by extending registration requirements to all adults convicted of a Class 2 registrable offence—it will no longer matter whether the sentence includes a term of imprisonment or requires the person to be supervised.

While the penalty imposed by the courts on such offenders indicates their conduct is at the lower end of seriousness in relation to registrable offences, the nature of the offences—such as possession of child pornography—are still serious offences that potentially endanger children and warrant monitoring by police through the registration process irrespective of the sentence received.

Young persons will continue to be exempt from registration if they commit certain Class 2 offences on a single occasion such as an act of indecency or possessing or publishing child pornography.

The bill also ensures that all persons arriving into New South Wales, who would be required to register with police in their country of origin, will be required to report their details to the New South Wales Police Force.

Child Protection Registration OrdersChild Protection Registration Orders

Police can currently apply to the court for a child protection registration order when a person is found guilty of an offence which is not a registrable offence.

The bill expands the circumstances in which courts can issue child protection registration orders to require someone to comply with the reporting obligations of the Act.

Firstly, the bill allows courts to issue orders for persons convicted overseas of an offences for conduct that would have constituted a registrable offence if committed in New South Wales.

For example, a person may be convicted in another country of possession of pornography in a jurisdiction that does not have the specific offence of possession of child pornography on its books, as is the case in a number of our neighbouring South East Asian countries.

Secondly, the bill allows courts to order persons to comply with the reporting obligations of the Act who completed their sentence for what is now defined as a Class 1 registrable offence before the Act commenced in October 2001.

These orders will not be able to be applied for a person who completed their sentence prior to October 2001 who was a child at the time they committed the offence.

Finally, the bill allows courts to order people charged with a registrable offence/s and released on bail under the Mental Health (Criminal Procedure) Act 1990 to report to police under the Act.

Such persons can be on bail for long periods of time while their fitness to be tried is assessed and a decision is made as to whether a special hearing under the Mental Health (Criminal Procedure) Act 1990 should be held.

Consequently, there is potential for significantly longer delays between a person being released on bail and the court issuing a 'sentence' for forensic patients than for others released on bail.

In all cases, courts will only be able to issue child protection registration orders when satisfied that the person poses a risk to the lives or sexual safety of one or more children, or of children generally.

Reporting email addressesReporting email addresses

The bill introduces a requirement that registrable persons are to report to police all their active electronic communication identifiers, details of service providers, service type and any changes to these details.

This includes all their active email addresses, chat room identities as well as all landline and mobile telephone numbers.

This information may assist investigations of the New South Wales Police Force, particularly in relation to child pornography or grooming and/or procuring of children.

While this additional reporting requirement will not stop convicted child sex offenders from using the Internet, it may deter persons on the Register from inappropriately using telecommunications and provide an added layer of protection for children while using the Internet.

Residing with children or unsupervised contact with children

I am advised that it is currently difficult to prove a breach under section 9(2) of the Act as police must provide evidence that a person on the Register has lived with a child for more than 14 days or had more than 14 days unsupervised contact with a child over a 12 month period, without telling police as is required under the Act.

The bill proposes that in future this information will need to be provided to police when a person on the Register has lived with a child for only 3 days or more or had unsupervised contact for 3 days or more in a 12 month period.

Furthermore, they will need to let police know of any change in this information within 3 days of the change occurring.

Similar amendments were recently introduced to Victoria's registration scheme and are intended to make it easier for police to gather evidence when they become aware that a person on the Register has breached their reporting obligations in this regard.

Timing of initial report to policeTiming of initial report to police

The bill requires registrable persons to make their initial report to police within 7 days. This reduces and simplifies the current timeframes in which registrable persons are required to make this report.

The introduction of this provision will align New South Wales with legislation in Western Australia, the Northern Territory and the Australian Capital Territory.

Presentation of passports

Registrable persons will also now be required to present any current passports they hold to police as part of their reporting requirements. This will assist police in confirming the identity of registrable persons from New South Wales upon their departure from or entry into Australia.

Increased penaltiesIncreased penalties

Police advise that failure to comply with reporting obligations can be an indicator of further offending; it can also be evidence of a disregard for the Register, the seriousness of the offence/s they have committed, and the Register's overall objective of protecting children.

In order for the Act to be effective, it is imperative that registrable persons have a sufficient deterrent to encourage them to comply with their reporting obligations.

Therefore the bill increases the maximum penalties for breaching reporting obligations under the Act from 2 years to 5 years imprisonment.

Apply to police prior to changing nameApply to police prior to changing name

Persons on the Register are currently required to report to New South Wales police their name, together with any other name by which the person is or has previously been known.

Based on similar reforms recently introduced to Victoria's scheme, the bill requires registrable persons to apply to the Commissioner of Police before changing their name.

Where the Commissioner believes that the name change is reasonably likely to be regarded as offensive by the

community, the person's victim or the victim's family; or where it might undermine the New South Wales Police Force's ability to supervise and monitor the person—the Commissioner will be authorised to prevent them from changing their name.

This proposal represents an operational improvement to the current scheme.

DNA samples of registrable personsDNA samples of registrable persons

Schedule 2 of the bill amends the Crimes (Forensic Procedure) Act 2000 to allow police to take and retain the DNA of registrable persons

This change will provide police with a powerful and crucial investigative tool to identify offenders and! or eliminate suspects when new child sexual offences occur.

By having the DNA of persons on the Register, more persons who commit child sex crimes will be identified, they will be identified faster and they will be more likely to be successfully prosecuted.

I am advised by police that the DNA sample could be taken when registrable persons either make their initial report or their annual report to police as required under the Act.

All persons on the Register should be eligible to have their DNA tested by police, irrespective of sentence.

Exemption from Freedom of Information

It was Parliament's original intention that information held on the Register should not be available to the public. To ensure this is the case, the bill exempts documents relating to the Register from the Freedom of Information Act 1989.

Clarifying in legislation that information held on the Register is not accessible to the public will encourage even higher levels of compliance with reporting obligations and further minimise the risk of vigilante activity.

I commend this bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.06 p.m.]: I lead for the Opposition in debate on the Child Protection (Offenders Registration) Bill 2007. It was only a couple of hours ago that we were in this Chamber debating other important legislation. We have just commenced what could well be the last—if not the last, then the penultimate—sitting day for 2007 to debate a very important community issue for child protection: offenders registration. The bill had its genesis in the Child Protection (Offenders Registration) Act 2000, the Crimes (Forensic Procedures) Act 2000 and the Freedom of Information Act 1989. The Opposition will not oppose this bill, which deals with a number of key matters. The offence of sexual assault by forced self-manipulation committed against a child will be a registrable class 1 offence for most serious offences.

The bill makes changes to classification as a registrable person, provides for further circumstances in which a child protection registration order may be made, extends reporting obligations of persons so affected by this legislation, suspends reporting obligations when they also are subject to an interim or extended supervision order under the Crimes (Serious Offenders Sex Offenders) Act, increases maximum penalties for failing to comply with reporting obligations and for providing false or misleading information when reporting, authorises the conduct of certain forensic procedures on registrable persons, and requires the approval of the Commissioner of Police before making a name change application. In addition to that, the bill makes it an offence to disclose information about a registrable person in certain circumstances. Next, it exempts certain documents relating to persons from the Freedom of Information Act. Finally, it provides for further review of the Act.

I do not intend to speak at length on this legislation because there are a large number of bills to be dealt with by the House today. However, there is no doubt that this area of law is a matter of increasing concern for the public, and quite rightly so. The bill is the result of the Ombudsman's review of the legislation, his report to Parliament, the review of the Child Protection (Offenders Registration) Act 2000, and quite a number of recommendations that were spelled out in the review and subsequently handed to the Ministry, which also produced its own report. That process has produced much-needed positive reforms.

It is important to record the commitment by the Hon. Catherine Cusack to this legislation. All members would acknowledge that she has pursued the Government to clarify its position on this legislation and to lift its standards of transparency. She stridently called for the Ombudsman's report to be made public, and she can hold her head high because she most certainly has played a significant role in pursuing the Government to update this legislation. I believe all members would agree that her commitment to the issue was not politically motivated but, rather, a manifestation of her commitment to ensure that changes to the system of registration became a reality. All members of the House would congratulate the Hon. Catherine Cusack, just as they would congratulate any member of this House who shows dedication and commitment to child protection issues in New South Wales. It is

great to know that all members, including the Hon. Amanda Fazio, support members of Parliament who pursue issues to increase protections for children.

The Hon. Catherine Cusack: I get a lot of feedback from Amanda.

The Hon. MICHAEL GALLACHER: I am sure the Hon. Catherine Cusack receives lot of positive feedback from the Hon. Amanda Fazio. It is that type of encouragement that sustains members on the Opposition side of the Chamber. It is important to recognise significant improvement in information that is available to police about registrable persons. The legislation provides for individuals who have been reported for offences in other jurisdictions throughout Australia and in other nations to have their names placed on the list of registrable persons. That is a very positive move. It will ensure that members of the New South Wales Police Force have access to the best possible information.

I will not delay the House by belabouring the effect of this legislation, other than to express concern about a matter that has been raised in the past by members of the Opposition—and no doubt will be raised by crossbench members—and that is, what type of information should be made available to the public to ensure that citizens are given the best available information in order to protect their community and their children? The legislation prohibits disclosure to the public of the names of people who are on the registrable persons list. That issue will be the subject of substantive debate in the community for some time in the future. Significant debate has taken place in the United States of America over the past couple of years centred round the type and extent of information that may be made available to members of the public.

The bill reconfirms the commitment from the Government to ensure that the public will not be part of the process of receiving information about registrable persons who live in a particular neighbourhood or a community. Disclosure of information will continue to be a substantive and live issue as it relates to child protection. No doubt sometime in the future the Parliament will be drawn into further debate on whether withholding information is in the best interests of the community or in the best interests of the registrable person. I look forward to debate on offenders registration and child protection in New South Wales. Having said that, I reiterate that the Opposition will not oppose the bill.

Ms SYLVIA HALE [2.15 p.m.]: I will not examine all the provisions of the bill because at the second reading stage and the agreement in principle stage Government members in this House and in the lower House canvassed them in detail. The Greens do not have an issue with most of the provisions in the bill. The bill provides that more people, including those convicted of a summary offence and are deemed to be a risk to the safety of children or at risk of committing sexual offences, may be placed on the offenders register. The bill also will allow police to place the names of people on the register when they have been convicted in another jurisdiction, such as overseas, of an offence that would otherwise result in their being included on the register in New South Wales. The suggested provisions will require those on the register to report to police when they have been living with a child for more than three days.

The provisions will increase penalties for breaching reporting obligations from two years to five years. It will allow a court to refuse a person permission to change his or her name by deed poll. It will allow police to collect DNA samples from those on the register and require that those on the register give police information about their Internet service providers and email addresses. The Greens support these provisions. However, it is important to recognise that Internet crimes comprise a small fraction of child sex offences, most of which—in fact, the overwhelming majority—occur inside the home and are perpetrated by a family member or relative. Therein lies the real danger. While Internet stalkers are a growing issue in the minds of many people and certainly cause parents to worry, we must not lose sight of where the major threat really lies. The threat comes from males in the home who are known to the child and who are often related to the child.

The Greens do not support the police being able to collect DNA in all circumstances. However, such a provision is useful in potentially, although not infallibly, identifying a person who has committed a crime. While by no means perfect, DNA matching is a useful tool for police. To date there have been no known false DNA matches in Australia, but there have been at least two noteworthy instances overseas, one involving a laboratory error. But, in general, cold hits have led police to convict people, notably in the United States of America and in the United Kingdom, of unsolved crimes. DNA profiling is used most often in sexual offence cases, but also in murder cases.

DNA profiling can exclude people who are falsely suspected of involvement in a crime. Notably this was done in Wee Waa after the rape of an elderly woman. The offender did not volunteer a blood sample, but many others in the community did, and thereby excluded themselves from suspicion. DNA profiling can also provide strong evidence of involvement. It often leads to the accused pleading guilty when faced with a DNA profile that shows it is almost certain that that person was involved in the crime. Those who are already on the register have been convicted of an offence. Therefore it may be argued that they have ceded their right to privacy.

The Greens highly prioritise the rights of the child. Child protection must be our chief consideration. One question that the Minister should address is: Does the collection of DNA act as a deterrent to someone reoffending, or does it simply ensure that they are more easily caught, once they reoffend? I am not saying that the Greens have the

answer to that question. Certainly the effectiveness of DNA matching indicates that the offender does not expect to be caught when reoffending, but DNA assists in conviction and subsequent incarceration, which obviously removes the offender from society, and while the offender is in a correctional centre, he or she does not have the opportunity to reoffend because there is no scope for the offender to do so.

The Greens support the collection of DNA from those on the New South Wales Child Protection Register for two reasons. First, the DNA is collected from those who have been convicted of an indictable sexual offence against a child or an offence of a lower order but in relation to which a court determines that the offender presents a risk to children. Under these circumstances collecting a DNA sample is legitimate as it is carried out after the offence has been committed and the person convicted. Second, the level of reoffending amongst paedophiles is not as high as commonly thought, but offences can be serious when they do occur.

The United Kingdom study "Reconviction Rates of Serious Sex Offenders and Assessments of their Risk" by Hood, Shute et al found that in 67 per cent of cases the victim or victims were confined to the offender's own family unit—that is, the offenders were parents, step-parents, grandparents or other close relatives—and 8.5 per cent were convicted of another sexual offence within six years. If the offender was originally convicted of crimes against children not in the family home, the rate of reoffending was greatly increased. Some 26.3 per cent of those originally imprisoned for a sexual crime against a child victim outside their family were reconvicted of another sexual crime, and 31.6 per cent were imprisoned for a sexual or violent crime.

A United States study by Rice, Quincy and Harris of extra familial child molesters produced a similar result. They found that 31 per cent had a reconviction for a second sexual offence within six years. The reoffending rate for those convicted of a sexual offence against another adult is lower relative to child sexual offenders. Child sexual offenders often repeat their crimes against children. Of 24 offenders in the United Kingdom study mentioned before whose first sexual conviction was for an offence against a child, 71 per cent repeated their sexual offences against children only. The rest changed to offending against an adult victim on at least one occasion. In light of the likelihood of about one-tenth to one-third of offenders reoffending, depending on the offender profile, the Greens believe taking DNA samples is justified.

The Greens also support the provisions that require those on the register to supply information about their Internet and email providers and addresses. This will curtail activity from their home computer. However, I note that the bill does not prevent people from visiting chat rooms and viewing child pornography in commercial premises such as sex shops or Internet cafes or even public libraries. As I mentioned before, the real problem is in the home, and most offenders know their victims well or are related to them.

The recommended changes follow a period of extensive consultation and a review of the Act. In November 2005 the New South Wales Ombudsman's review of the register was tabled in Parliament. This review found that the implementation of the Act had been largely successful and that the register had the capacity to be a significant child protection tool. The Greens recognise that the Government must also support treatment for child sex offenders in correctional centres. According to a study conducted for the Australian Institute of Criminology by Donato and Shanahan, current treatment programs produce a 2 to 14 percentage point reduction in recidivism rates. These programs need to be followed up outside jail, and for a long period. According to Victorian forensic psychiatrist William Glaser:

sex offenders are notorious long-term recidivists and any benefit from treatment may only be apparent after a lengthy period. Conversely, a really effective treatment program will have to emphasise long-term follow-up

In light of the Ombudsman's comments and after weighing up the need to protect children and the potential threat from offenders, the Greens support the bill.

Reverend the Hon. FRED NILE [2.24 p.m.]: The Christian Democratic Party supports the Child Protection (Offenders Registration) Amendment Bill 2007, which amends the Child Protection (Offenders Registration) Act 2000, the Crimes (Forensic Procedures) Act 2000 and the Freedom of Information Act 1989. It contains a number of provisions. It provides that the offence of sexual assault by forced self-manipulation committed against a child is a registrable offence under the principal Act. It also makes further provision with respect to classification as a registrable person or a corresponding registrable person under the principal Act. I refer particularly to the increase in the maximum penalties for failing to comply with reporting obligations and for providing false or misleading information when reporting. It is most important to keep track of sex offenders, particularly those who have been convicted of child abuse. The bill also authorises the conduct of certain forensic procedures on registrable persons.

Schedule 1 [28] requires a registrable person to seek the approval of the Commissioner of Police before making an application to change his or her name under the Births, Deaths and Marriages Registration Act 1995 or a similar Act of another State or Territory. This is an important provision. The proposed amendments are closely modelled on the proposed amendments to the Sex Offenders Registration Act 2004 of Victoria. The Commissioner of Police will be able to approve a change of name only if satisfied that the change of name is necessary or reasonable. The commissioner must not give approval when the change is reasonably likely to be

regarded as offensive by a victim of crime or an appreciable section of the community or is reasonably likely to frustrate the administration of justice in respect of the registrable person.

I have mentioned in Parliament on previous occasions child sex offenders who have deliberately changed their names in order to conceal their identity. They have even been employed to work with children because their new employer had no way of knowing of their previous child abuse convictions. So this provision is vital. However, I have difficulty understanding some of the bill's provisions. For example, schedule 1 [31] makes it an offence—carrying a maximum penalty of 100 penalty units or two years imprisonment—for a person to disclose information about a registrable person except in specified circumstances. People have made it clear that they want to know when a convicted child sex offender is living near them, particularly in areas where there are many families with children. Under the law they do not have access to this information. Some States in America have changed their laws to make that information available to people who seek it. But this bill seems to reinforce secrecy and the non-disclosure of that information.

I believe the Government should review this issue in the future and perhaps introduce an amending bill. Finally, like other legislation, the bill enhances the ability of police to conduct further forensic procedures. The bill authorises police to carry out an other-administered buccal swab, which is an intimate forensic procedure. They are also authorised to carry out a self-administered buccal swab and to take a sample of hair other than pubic hair. These are non-intimate forensic procedures. This will help police to identify offenders and keep track of them, as there is a strong possibility they will reoffend. The police need to be able to gather DNA samples and other material to identify repeat offenders and arrest them quickly. The Christian Democratic Party supports the bill.

The Hon. CATHERINE CUSACK [2.30 p.m.]: I will not traverse the ground covered by my colleague, the Leader of the Opposition, who laid out the Opposition's position in relation to the Child Protection (Offenders Registration) Amendment Bill 2007. I will refer specifically to the review of the legislation and briefly recap the review process that has led to the amendments to the Act in this legislation. The original Act was enacted in 2002 and it provided that a two-year review of the Act by the Ombudsman be undertaken. The review process that was commenced two years from the date of assent of the Act, which was in 2001, will have taken eight years, to 2008, to be completed. I will elaborate during the Committee stage why that process has been so cumbersome. I foreshadow that I will move an amendment in the Committee stage in relation to line 15, page 15 of the bill, which refers again to a section 26 review of the Act. It proposes that such a review should commence five years from the date of assent of this legislation.

Based on experience and the Opposition's calculations, a review that does not commence until five years after the date of assent would take between 10 and 13 years, which is far too long. The Opposition will move in the Committee stage to amend the period for the commencement of a review from five years to two years, which will bring it into line with the two-year period that was in the initial Act. The Opposition believes it will provide more integral accountability and evaluation of this bill. This is very important legislation in its impact on individual rights and its effectiveness. The Opposition believes that the review process is a very important way to evaluate performance under the Act. The Opposition asks the Government to support its foreshadowed amendment that will only improve the bill and ensure better accountability down the track.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [2.32 p.m.], in reply: I thank honourable members for their contributions to the Child Protection (Offenders Registration) Amendment Bill 2007, which introduces mechanical changes to enable the smoother operation of the Child Protection (Offenders Registration) Act 2000. The bill also introduces changes identified in the statutory review that will provide police with more information when investigating and prosecuting child sex offences committed by recidivist offenders. The amendments arising from the review cover a range of issues related to the registration reporting requirements of certain people on the New South Wales Child Protection Register.

In particular, the bill allows police to take and retain DNA samples of people on the register, extends the circumstances in which courts may issue child protection registration orders, increases the penalties from two to five years when people breach their reporting obligations under the Act, requires a person on the register to provide police with their email and chat room addresses, and any other electronic communication identifiers they may use, and tightens reporting requirement for registrable persons by, for example, requiring all initial reports to be made to police within seven days. The total package of reforms presented in this bill will make the Child Protection (Offenders Registration) Act 2000 a more effective statutory basis to underpin the New South Wales Child Protection Register.

In relation to public knowledge of where a registrable person lives, the Government does not support general disclosure to the community of names and addresses of child sex offenders. There are legitimate concerns that notification may reduce the protection offered to children, including that it is likely to increase the reporting obligation non-compliance rates of persons who are required to be on the Child Protection Register. A fully public register would allow paedophiles to easily find details of other child sex offenders in order to form networks. It could identify victims in cases where someone has abused a family member, adding to the victim's trauma. It may discourage people from reporting child sex abuse that occurs within the family.

Offenders would be more likely to move more frequently to escape community hostility, making it more difficult to monitor them. It may discourage guilty pleas, and would be likely to lead to increased community vigilantism. The New South Wales Police Force has an information disclosure policy for people on the Child Protection Register. The policy is used in cases where police have fears that a person on the register currently poses a risk to a child or children. In those cases police are able to disclose details from the register to relevant people or bodies. This is only used as a last resort to protect the community. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 7 agreed to.

The Hon. CATHERINE CUSACK [2.36 p.m.]: I move:

Page 15, schedule 1 [35] line 15, omit "5 years", insert instead "2 years".

The background to this matter relates to the amount of time it appears to take the Government to complete its reviews of legislation. The original Act of 2000, which was proclaimed in 2001, provided for a two-year review by the Ombudsman. In 2003 the review commenced, as scheduled, and the Ombudsman completed his review and forwarded it to the Minister in May 2005. Unfortunately, the wording of the Act contains those wonderful words "as soon as possible". When the Minister received the Ombudsman's report he was required to table it in Parliament as soon as possible but he did not table it at that time. In October 2005 the Ombudsman, Bruce Barbour, spoke out publicly because he wanted to know why such an important and in-depth report had not been tabled.

The Ombudsman should be rightly proud of that report, which is well over 200 pages long. It was an in-depth study of all of the cases and their progress. It was an important and thorough report. As of October the report was still not tabled in the Parliament, six months after it was provided to the Minister. I heard radio reports of the Ombudsman calling on the Government to table his report. I contacted his office to find out how many other reports of legislation that the Parliament has required to be reviewed after a period have been given to the police Minister, or more frequently the Attorney General, and have not been tabled. Because of the loophole that says they have to be tabled as soon as possible the Government sits on them and lets them gather dust in the in-tray, and abuses the latitude in the wording of the Act.

I was referred to the Ombudsman's annual report and I discovered that at least six of such reports were more than six months overdue for tabling in Parliament. The Opposition moved a call for papers to obtain for the House what I consider was the property of the House: the Ombudsman's report to the Parliament on the progress of the legislation. Late November that call for papers was passed, and I thank the members of the crossbench for their support on that matter, which resulted in the Attorney General releasing all the Ombudsman's reports in December. The final tabling of the Ombudsman's report triggered a further review under section 26 of the Act. This required the Ministry of Police, or the Government in any event, to undertake a further review as soon as possible to ensure that the legislation still complied with the objectives of the Act. The purpose of the review, in the words of the Ombudsman, was to see "whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives".

The Ombudsman's report was a source document for the further review undertaken by the Government; in this case "as soon as possible" meant that it took another 12 months. The Government's report to Parliament on the review of the Child Protection (Offenders Registration) Act 2000 was completed by the Ministry of Police in November 2007 and tabled by the Government on 30 November. Of course, the report was part of the dump of documents and legislation tabled in the week after the Federal election, which the Parliament has experienced in the pre-Christmas rush. That means that we have had only five days to look at the report and consider the legislative amendments so that they can be passed by the Parliament before Christmas.

Members of Parliament have had only five days to consider the culmination of the review process, which has continued for eight years. That is a short time frame but, unfortunately, it is not inconsistent with the Government's attitude towards sharing information. As I said, the original review was initially scheduled to take place two years after the original bill was assented to. I appreciate that it is too ambitious to have a review completed within two years and then expect legislative amendments to be proposed within 12 months. However, had the original two-year review period been complied with, it would still be three or four years before we considered amendments and the weighty analysis of issues arising from the Act.

This bill provides for a further review process. We believe that a review of legislation of this nature is vital. Not only

is a review important in terms of operation of the Act; the principle Act operates in the context of other State legislation and in the context of Commonwealth and State efforts to monitor the activity of child sex offenders to modify their behaviour. The Act operates in conjunction with many other State Acts, as well as legislation in other States and the Commonwealth. So we feel that five years is too long a period to wait before commencing a further review. In this amendment the Opposition proposes that a further review commence two years after the bill is assented to. Assuming the bill is assented to some time next year, a further review of the Act would commence in 2010. If that is the case, we accept that it will take several years to reach any outcomes. This amendment is modest. It is commonsense. It will assist the Government, and it will improve the legislation. It will enable us to continue to monitor one of the most important Acts passed by the New South Wales Parliament in the past 10 years and which has huge impacts on individuals and on a vulnerable group in our community.

Reverend the Hon. FRED NILE [2.42 p.m.]: The amendment seems reasonable in respect of maintaining the pattern of reviewing the legislation after two years. There are always events occurring in the child sexual abuse area—new information, new policies and changes to policies. It would be better to undertake the review after two years so that any new information could be taken into account in that review, which may result in amendments to the legislation. I noted what the Hon. Catherine Cusack said about delays in getting the reports. I wonder whether item [35] in schedule 1 should be amended to provide that a report of the review will be tabled in Parliament no later than one month after being received by the Minister. It may not be possible to amend the bill today but the Minister could give an assurance that the review will be tabled in Parliament one month after it is received—the Minister may feel that it should be three months but not one year later—which is the purpose of the review.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [2.44 p.m.]: In response to the Opposition's amendment, five years is the standard amount of time for the review of the legislation. The Government fully supports the beneficial review of the legislation to ensure that the intent of the Parliament is realised, to identify areas for improvement and to rectify any loopholes or inadvertent practical inadequacies. For the full benefits of the review to be realised it is necessary to allow changes to settle and for new laws to be utilised before being reviewed. For example, in 2004 the Government made substantial changes to the Child Protection (Offenders Registration) 2000 when New South Wales led the expansion of the mandatory registration system from operating only within New South Wales to being a national model endorsed by the Australasian Police Ministers' Council. It would have been difficult, to say the least, for an accurate assessment to have been made about the operation of the new requirements within a shorter time frame. In short, the Government fully supports the principle that legislation must be reviewed in a timely manner. However, we believe that less than five years is too short a time for any review to make practical or useful recommendations.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 19

Mr Ajaka Mr Clarke Mr Cohen Ms Cusack Ms Ficarra Mr Gallacher Miss Gardiner	Ms Hale Dr Kaye Mr Khan Mr Lynn Mr Mason-Cox Reverend Nile Ms Parker	Mrs Pavey Mr Pearce Ms Rhiannon *Tellers,* Mr Colless Mr Harwin

Noes, 19

Mr Brown Mr Catanzariti Mr Costa Ms Griffin Mr Hatzistergos Mr Kelly	Mr Obeid Mr Primrose Ms Robertson Mr Roozendaal Ms Sharpe Mr Smith Mr Tsang	Ms Voltz Mr West Ms Westwood *Tellers,* Mr Donnelly Mr Veitch

Mr Macdonald		

Pair

Mr Gay	Mr Della Bosca

The CHAIR (The Hon. Amanda Fazio): Order! The vote being equal, I give my casting vote with the noes and declare the question resolved in the negative.

Amendment negatived.

Schedule 1 agreed to.

Schedules 2 to 4 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Eric Roozendaal agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Eric Roozendaal agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

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