

CRIMINAL LAW CONSOLIDATION (DOUBLE JEOPARDY)

AMENDMENT BILL

3 April 2008

The Hon. A.L. EVANS: I rise to support the second reading of this bill. My comments will be fairly brief, but it may well be that my colleague the Hon. Dennis Hood will add some further thoughts on this important issue during the committee stage.

The submissions we have received on this bill remind me clearly of the submissions that I received after I introduced my bill in July 2002, namely, the Criminal Law Consolidation (Abolition of Time Limit for Prosecution of Certain Sexual Offences) Amendment Bill. By the way, I was disappointed that the Premier—when releasing the Mullighan report earlier this week—gave Family First no credit for the bill which removed the bar to prosecution for offences committed before 1 December 1982. Of course, it was my private member's bill that allowed those offences to be prosecuted and got the ball rolling on opening up the truth about the past and allowing people to come forward and speak about past sexual abuse.

In 2002, after I introduced the bill, I heard the same arguments as I hear now from lawyers and civil libertarians about how the law was well settled and we should not wind things back. I disagreed with those arguments then and I disagree with them now. Justice must prevail in a fair and just legal system. If we have fresh evidence we could not obtain or produce before, there should be no obstacle to re-trying criminals for their crimes.

We now have the technology (such as DNA technology) to enable us to prove things that we could not prove adequately in the courts before. I, for one, was pleased to hear that the South Australian police are re-opening the so-called

'Family' murder files and DNA-testing suspects, and this bill may perhaps be an avenue to re-trying any acquittals.

Of course, there are other grounds for winding back double jeopardy, such as interference in judicial proceedings, but I will not go into that in any great detail here. I will, however, repeat a request which the Family First office put to the Attorney-General's office on 21 February and to which we have not yet had a reply, So I will put that request on the record now: can the Attorney-General, or indeed the Minister for Police, advise roughly how many closed or so-called 'cold' cases might be capable of being reopened once these reforms are passed?

I understand, for instance, that in the United Kingdom, when similar laws were passed in 2005, the National Crime Faculty there were able to identify 35 persons acquitted of murder who could potentially be reinvestigated and against whom new charges could be brought. I do not think that giving us such a statistic for South Australia will prejudice any investigations; in fact, it may well send a message to criminals, who think they have gotten away with their crimes, that their ill-gotten freedom might be short-lived.

Family First therefore supports this bill because we believe there is now sound reason for removing the double jeopardy provisions in the situations described in the bill.