

SEXUAL ABUSE OFFENCES

25 October 2007

The Hon. D.G.E. HOOD: I have just returned from a protest outside the Supreme Court building approximately 30 minutes ago. It was organised by victims of child sex abuse. The protest concerned the appalling decision by the Court of Criminal Appeal on 12 October this year in the matter of the crown against a defendant identified as Mr P.

From about 1969 until 1989, three children were subjected to what the court acknowledged was a 'dreadful course of sexual abuse' at the hands of their own father, who was identified by the court as Mr X. Mr P then became involved in the course of abuse with the permission of Mr X, the victims' father. It was alleged that on three occasions from approximately 1974 to 1976 Mr P participated in sexual intercourse with the children—against their will obviously. When Mr P was finally brought to justice, thanks largely to the bill removing the statute of limitations for sexual offences (introduced by my colleague the Hon. Andrew Evans) he was sentenced to imprisonment for a period of five years and three months, with a non-parole period of three years.

That was not good enough for the sexual offender, who had his lawyers appeal the sentence, saying that it was 'manifestly excessive'. In the judgment, with Chief Justice Doyle dissenting, the court held that the whole of the sentence should be suspended because, among other reasons, if the defendant was sentenced to prison he would 'be at significant risk of further emotional harm whilst in custody'—this is the offender. My questions are:

1. Is the minister appalled that this sexual offender, who abused defenceless young girls on a number of occasions, has been allowed to walk free with no penalty whatsoever?

2. Is the minister, as the Minister for Police, concerned that the courts appear to be putting the needs of the offender above the need for justice and the protection of the victims?

3. How does this sentence accord with section 10(4) of the Criminal Law (Sentencing) Act? This section provides:

A primary policy of the criminal law is to protect children from sexual predators by ensuring that, in any sentence for an offence involving sexual exploitation of a child, paramount consideration is given for the need for deterrence.

The PRESIDENT: Order! Just before the honourable minister answers, I remind the honourable member, when he asks those types of question, to be careful not to reflect upon the courts. The word 'appalled' reflects opinion and the honourable member should just be careful of that.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:50): I was listening to the radio this morning and I did hear one of the victims of that assault speaking—if it is the case that I believe the honourable member is referring to—and not only was the father of those girls guilty but I understand there were some other individuals who had also been let off by the courts.

As you rightly pointed out, Mr President, it is against the standing orders of this place to attack the judiciary and judicial decisions. As a matter of course I think it is important, if we are to make comments, that we should read all the facts and be aware of what the judiciary is taking into consideration. Many decisions made by the courts certainly frustrate me, and I am sure they frustrate the police and others when we read about them. However, it is important that we do have, under our Westminster system, a separation of powers, and the courts are there to interpret the law.

Nevertheless, I think the courts are responsive to public opinion. If there is public outrage in relation to particular decisions because the public believe that community standards are not being adequately reflected, then I think the judiciary do respond. We have some evidence of that in relation to some of the recent motor vehicle chases. I believe the courts have responded to the belief of the community that some of those sentences being handed

down were not adequate. It has always been an issue, in relation to child abuse, that the penalties imposed are often out of kilter with community standards.

Apart from making those comments, all I can do is ask the Attorney to have a look at this particular case. If it has gone to the Court of Criminal Appeal there is only the High Court left in relation to such matters. I will ask the Attorney to examine the issues raised by the honourable member. All this parliament can do is continue to reiterate—through the increasing amount of legislation and the increase in penalties that have been provided, as well as the increased attention that has been given to all cases involving sexual abuse (including events in the Northern Territory), together with discussions taking place not just in this parliament but also in other parliaments—that the community believes that the courts need to deal with sexual abuse cases with more rigour than has been the case in the past. One can only hope that in future the courts will reflect the views the community hold—that penalties should be greater for these sorts of offences.