Jodeen Carney
Shadow Attorney-General,
Shadow Minister for Justice, and Women's Policy

Shadow Attorney calls for an apology

25 August 2004

Shadow Attorney-General, Jodeen Carney has called on Family and Community Services Minister, Marion Scrymgour to apologise for saying that Ms. Carney has called for lower prisons sentences for child abusers.

Ms. Carney said Ms. Scrymgour simply made up the claim.

"Her comments were plucked from thin air, and she has been untruthful. She is becoming more like her Ministerial colleagues everyday", Ms. Carney said.

Ms Carney also called on Minister Paul Henderson to apologise to Territory mums and dads for not taking the issue seriously enough, accusing him of giggling and laughing throughout the debate on child abuse.

"Minister Henderson's behaviour was offensive and did not give the issue the seriousness it deserves," Ms Carney said.

Ms Carney today repeated the note of caution she sounded in November last year when Government increased penalties for child abusers.

"The practical realities mean that higher sentences are not simple as they appear. It is very difficult to obtain convictions in child abuse matters, and many of the convictions that are obtained come as a result of pleas of guilty," she said.

"There may be fewer pleas of guilty if offenders are looking at jail terms of 25 years.

"When I raised this concern last year, the Attorney-General gave me an assurance that if evidence showed that there were fewer convictions, and therefore more child abusers walking free, then the laws may need to be reviewed. At least the Attorney understands the difficulties. It's a pity that the Minister Scrymgour does not."

Ms. Carney said that an apology from Ms. Scrymgour was required, partly due to her lack of understanding, and also for making things up.

*Attached: extract of Ms. Carney's speech 25th November 2003

Ms CARNEY (Araluen): Madam Speaker, prior to addressing particular parts of this bill, I wish to make some observations about the way in which the bill has been presented.

There are a range of reforms which should properly, in my view, have been the subject of separate bills. However, they have all been rolled into one. This places all members in the unfortunate position of having to either support or oppose the bill in its entirety. I am aware, for example, of several members who support parts of the bill whilst strongly opposing other parts and, as a result, have no alternative but to oppose the bill. The way the government has presented this bill is extremely disappointing.

Those parts of the bill which concern me greatly are the clauses dealing with increased
penalties for child sex offenders and several things need to be said about this. First, it is unfortunate, to say the least, that the government has seen fit to link the topic of child abuse with lowering of the male age of consent to homosexual sex. This may well have been done in an attempt to placate those who would argue that lowering the age of consent means that young men will need extra protection from predatory older males. However, this is not an argument which should have been given currency, and the government does itself no credit by raising it. Indeed, it is to the government's eternal shame. It is inappropriate to link equal rights for young gay people on the one hand with increased penalties for child abusers on the other, and in the same bill. No doubt, government has realised the error of its ways by now and regrets having caused some of the negative responses to the bill.

Second, I have some well-founded reservations about the proposed increase in sentences for child abusers. This, no doubt, sounds astonishing, as all good citizens believe that convicted child abusers should spend more time in gaol. The practical realities, however, mean that the proposal is not so simple, and I note with great interest that there has been little or no comment on this from anyone in this House or, indeed, in the public arena. Penalties have been increased to up to 25 years for some offences. This, no doubt, seems laudable to many but the result is likely to be that more child abusers will walk free. As most people who work in this area already know, it is very difficult to obtain convictions in child sexual assault matters, and there are a number of reasons for that which I will not go into here. I suspect, however, that a good many of the convictions obtained are because some offenders are prepared to plead guilty.

The reality of such significant increases in proposed sentences is that fewer pleas of guilty will be entered and more cases will, thereby, proceed to trial before a jury - juries which are notorious for not convicting in cases of sex crimes. Simply put, if an alleged child abuser is looking at serving 25 years for his crime, why on earth would he plead guilty? As a result of these higher sentences, called 'tougher penalties' for political purposes, child abusers are even more likely to take their chances before a jury. The logic is the same for mandatory life sentences for murder: each defendant charged with murder elects to be tried before a jury. There are no guilty pleas to a charge of murder. The only guilty pleas in cases of deaths are to the lesser charges of manslaughter or dangerous act. Rather than plead guilty, accused child sex offenders will proceed to trial. This means that more children will be required to give evidence, which, for many of them, is very traumatic. This will be occurring at a time when all jurisdictions are actively seeking to minimise these kinds of harms to children by enacting a variety of measures to avoid them having to give evidence or give it only once.

Furthermore, juries have real difficulty in accepting the evidence of children, particularly when it is against an adult. We all know that sexual assaults against children are almost never corroborated, and children's evidence is almost always not regarded as sufficient to convict. The conviction rate in the Northern Territory is so appalling that the abusers can be almost guaranteed to go to trial because of this legislation. This is to say nothing of the additional burden on taxpayers who have to foot the bill for more trials and expenses involved.

Finally on this aspect of the bill, I am compelled to ask whether any thought has been given by anybody to the potentially increased risk to children as a result of significantly increasing sentences for child abuse. It is possible that an offender may contemplate seriously injuring the child, or worse, if facing what amounts to a life sentence.

I raised my concerns in relation to these matters at a government briefing, as well as directly with the Attorney-General. I sought his assurance that he will consider changing these penalties if evidence shows, as I fear it will, that there are fewer pleas of guilty and an even lower conviction rate. To his great credit, the Attorney-General has given me that assurance, and I thank him for it.

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