

## **Opinion piece from Dr Ian Hassall**

**Wellington Wednesday 2 May 2007**

Public uncertainty over the fate of the Crimes (Substituted S59) Amendment Bill came suddenly and dramatically to an end on Wednesday, 2 May. The Prime Minister, the Leader of the Opposition and the Bill's sponsor called a press conference mid-morning and announced that they had struck a deal to allow the passage of the Bill which had up to then been held up by a National-led parliamentary filibuster.

The Bill had been the subject of highly visible public contention in the preceding three weeks of the parliamentary recess. There had been daily media and blog coverage of opinions for and against the Bill and endless informal polls. There was media speculation that defections might at the last moment upset the small pro-Bill majority. Such speculation was, of course, encouraged by those in Parliament and outside who were opposed to the Bill.

That Wednesday was an extraordinary day. After the press conference at the Beehive and the rare spectacle of the leaders of the two main parties publicly agreeing, some of the participants went on to the Anglican Cathedral up the road. Here, senior clerics from a number of branches of Christianity held a service supporting the Bill. They called for peace in New Zealand families. Supporters filled the cathedral.

Meantime a thousand-strong demonstration against the Bill led by the evangelical Destiny Church took place in and around the grounds of Parliament. Leaders of both the cathedral service and the street demonstration presented their views to parliamentary representatives.

The session of Parliament which was the target of all this activity recommenced its consideration of the legislation at 4.00pm. By 9.30pm the members had voted in a Bill which included the agreed amendment that had been announced earlier in the day. Their speeches were a wondrous mix of graciousness and point-scoring, of small-minded party politicking and visionary unity. Some seemed bewildered by the swiftness of events and continued to fight the abandoned battle of the previous parliamentary session.

The Wednesday evening session ended the Committee stage of the Bill which returned to Parliament for its third reading a fortnight later.

The media responses to these events were initially somewhat confused. Such was the intensity and pervasiveness of the public argument over the Bill in the preceding few months that few people could have escaped having to formulate a view. The question the media and quite a few of the contenders immediately wanted to ask was, 'Who won?' In answer to that all sides claimed victory.

The contest side of the story is fascinating and will no doubt preoccupy us for some time to come but it will eventually fade into oblivion. What will be left? We will have removed from our law as a standard of child-rearing the expectation that children will be hit? That is what S59 was. What have we put in its place? We have reaffirmed a

section of existing Police prosecution guidelines and given it the weight of law. It says in effect that parents will not be prosecuted for inconsequential acts upon their children.

That's all. If that is all we have done, what was the fuss about? The immediate result, when the law comes into effect, will be, as the Police Commissioner said, to substantially lower the threshold for Police intervention in relation to alleged assaults on children. When asked if he thought this would mean assaults with objects such as hose piping and pieces of wood would no longer be permissible the Commissioner said he thought that was the case. He added that the Courts would fix the level in the long run.

This will no doubt put a brake on some heavy-handed parents who were aware of their likely immunity from successful prosecution under the old law. But the gain to children is potentially greater than that. Section 59 as it stood was a reminder in law of an ancient view of children as having lesser status than adults, as property, and subject to the wishes and moods of their parents. This view served many children well but it has been increasingly apparent that it left some children leading lives of misery, pain and fear.

The new law follows the course of the Care of Children Act 2004 in taking a different view of children. It is a view of them as citizens of no less consequence than adults, holding full human rights and under the full protection of the law. This does not mean they are to be treated as adults in all respects or that parents should be fearful of wanton interference with their natural and legitimate authority.

The entitlements of children, in this view, are clear but not limitless. They are spelled out in the United Nations Convention on the Rights of the Child which New Zealand signed up to in 1992. With our amendment of Section 59 we are catching up with our promise of fifteen years ago.

Even if we had not passed the Bill, the debate it has provoked would have been worthwhile. Children are in need of attention from our policy-makers in many ways beside protection from assault. Children are the group most affected by poverty in this country. Many have limited opportunity. The present debate has focussed attention on them which can be used to find ways of according them a place that benefits them and our whole society. Not the least of the beneficiaries of better care of our children will be the large, ageing baby boomer generation who will be dependent on their productivity as the children become adults.

But that is looking ahead. Wednesday 2 May, 2007 can be celebrated as the day we decided as a nation to give up hitting children and in doing so to recognise their full status as citizens and human beings. We cannot claim to be world pioneers as we were with the introduction of votes for women and our nuclear free legislation. The European countries are ahead of us in this respect. In the English-speaking world, though, abolition of this law (with appropriate safeguards) is a first.

The fact that it has been passed by such a majority makes it all the more secure and more remarkable. All the parliamentarians who contributed can be proud of what they

have done and a special place in history will be reserved for Helen Clark, John Key and Sue Bradford whose foresight and wisdom finally made it possible.

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